1101.

SUPREME COURT OF THE UNITED STATES.

No. 140.

SEBA M. BOGART, WM. J. WILCOX, AND LEONARD F. FITCH, LIBELLANTS AND APPELLANTS,

vs.

THE STEAMBOAT JOHN JAY, HER TACKLE, &c., GEORGE LOGAN, CLAIMANT.

APPEAL FROM THE CIRCUIT COURT UNITED STATES, FOR SOUTHERN DISTRICT OF NEW YORK.

INDEX.

	Original.	Print.
Libel in district court	1	1
Bond and hypothecation	6	3
Stipulation for libellants' costs	15	6
Monition	17	7
Stipulation	19	8
Stipulation	21	9
Consent upon stipulations for costs and value to discharge vessel	23	10
Answer and claim of George Logan	24	11
Replication	27	12
Duplication	49	20
Proceedings in district court	57	24
Testimony of John A. Berry	59	24
" Nelson Place	60	25
License bond	63	25
Bond for enrolment	65	26
License	69	29
Assignment—J. McMurray to F. Duncan and G. Logan	72	30
Schedule A, referred to in assignment	77	32
" B	81	34
" C	82	34
Bill of sale—McMurray to Logan	84	35
Enrolment	88	36

GIDEON, Print.

	Original.	Print.
Decree of district court dismissing libel	117	49
Notice of appeal	119	50
Bond for costs	121	51
Appeal to circuit court	123	52
Proceedings in circuit court	129	53
Decree of circuit court affirming decree of district court	129	54
Appeal bond	131	54
Petition of appeal	138	55
Citation	139	57
Certificate of clerk of district court	140	58
Certificate of clerk of circuit court	141	58

1112.

At a stated term of the district court of the United States of America, for the southern district of New York, held at the city hall in the city of New York, on Thursday, the nineteenth day of May, in the year of our Lord one thousand eight hundred and fifty-three:

Present, the honorable Samuel R. Betts, district judge.

SEBA M. BOGART, WM. J. WILCOX, & LEONARD FISH,
vs.
THE STEAMBOAT JOHN JAY. } 9—19.

December 3, 1850. The libellants file their libel in the words following:

To the honorable Samuel R. Betts, judge of the district court of the United States for the Southern district of New York.

The libel of Seba M. Bogart, William J. Wilcox, and Leonard F. Fitch, of the city and county of New York, in the State of New York, against the Steamboat John Jay, otherwise known as the Goliah, her tackle, apparel, and furniture, (whereof Joseph McMurray, of Brooklyn, in the county of Kings, in the State of New York, is owner,) and against all persons lawfully intervening for their interest therein, in a cause of mortgage, civil and maritime, alleges as follows:

First. That on or prior to the 8th day of May, in the year 1850, the libellants were jointly the owners of the said Steamboat John Jay, and that they, being such owners, did, on that day, in pursuance of an agreement entered into between them and the said Joseph McMurray, lawfully transfer, convey, and deliver the said steamboat, her tackle, apparel, and furniture, to the said Joseph McMurray, and place the same in his name, he engaging and agreeing to pay to the libellants as the price and consideration for such sale the sum of six thousand dollars, as follows: one thousand dollars in money at the time of such sale and delivery, and the remaining five thousand dollars by his eight promissory notes, all bearing date the eighth day of said month of May, payable in equal instalments of six hundred and twenty-five dollars each, with interest added, to the order of the libellants, in three, six, nine, twelve, fifteen, eighteen, twenty-one, and twenty-four months successively thereafter.

Second. That in consideration of said sale, and in fulfilment of said agreement, the said Joseph McMurray did, on the said eighth day of May above mentioned, pay to the libellants the said sum of one thousand dollars in money, and make and deliver to them his eight promissory notes of the tenor above mentioned.

Third. That in further consideration of said sale and agreement, the said Joseph McMurray did, on the same eighth day of May, one thousand eight hundred and fifty, by a certain bond or instrument, a

copy of which is hereto annexed, bearing date on that day, by him signed, sealed, and executed in the presence of two credible witnesses, who have subscribed their names thereto as witnesses of the due execution thereof, become held and firmly bound to the libellants in the penal sum of ten thousand dollars, with a condition thereunder written whereby and wherein, among other things, he sold, transferred, assigned, and set over to the libellants the said vessel or steamboat "John Jay," her tackle, apparel, furniture, boats, machinery, and all appurtenances and equipments, to operate as a mortgage to secure the full and just payment of the eight promissory notes above mentioned, given in consideration of the purchase money of the said vessel or steamboat as aforesaid.

Fourth. That when the second in order of the said eight promissory notes, that is to say, the note at six months for six hundred forty-seven dollars and eighty-seven cents, became due and payable on the eleventh day of November, one thousand eight hundred and fifty, the said Joseph McMurray did not pay the same, but made default therein, and suffered the same to be dishonored and protested for non-payment, and that the said last mentioned note now remains in the hands of the libellants as the lawful owners, still due and owing and unpaid.

Fifth. That by reason of such default of the said Joseph McMurray in neglecting to pay the said last mentioned note when due, the title to the said vessel or steamboat, the John Jay, under and by virtue of the condition of the said bond or instrument, a copy of which is hereto annexed, has become forfeited to and absolute in the libellants.

Sixth. That the libellants have not received the aforesaid sum of six hundred and forty-seven dollars and eighty-seven cents, and that the said bond and last mentioned note remain unsatisfied, to the great damage of the libellants.

Seventh. That all and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this honorable court.

Wherefore the libellants pray, that process in due form of law, according to the course of this honorable court in cases of admiralty and maritime jurisdiction, may issue against the said vessel or steamboat, the John Jay, her tackle, apparel, furniture, boats, machinery, and equipments, and that all persons having or pretending to have any right, title, or interest therein, may be cited to appear and answer all and singular the matters aforesaid; and that this honorable court would be pleased to decree the payment of the amount of the purchase money of said vessel or steamboat yet remaining unpaid to the libellants, with interest and costs; and that the said vessel or steamboat, her tackle, apparel, furniture, machinery, boats, and equipments, may be condemned to pay the same; and that the libellants may have such other and further relief as in law and justice they may be entitled to receive.

SEBA M. BOGERT,
W. A. SEELY,
Proctors for libellants, and advocate.
HAY S. MACKAY, *Of counsel.*

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Seba M. Bogert, one of the above libellants, being duly sworn, deposes and says that he has read the foregoing libel and knows the contents thereof, and that the same is true to the best of his knowledge, information, and belief. SEBA M. BOGERT.

Subscribed and sworn to, this thirteenth day of December, 1850, before me. GEO. W. MORTON,
U. S. Comm'r.

Know all men by these presents, that I, Joseph McMurray, of Brooklyn, Kings county, in the State of New York, in the United States of America, am held and firmly bound to Seba M. Bogert, master mariner, William J. Wilcox, and Leonard Fitch, ice dealers, of the city and county of New York, in the said United States, their certain attorney or attorneys, executors, administrators, and assigns, in the sum of ten thousand dollars, lawful money of the United States of America, to which payment well and truly to be made, I bind myself, my heirs, executors, administrators, or assigns, firmly by these presents. Sealed with seal, and dated in the city of New York, in the United States of America, this eighth day of May, in the year of our Lord one thousand eight hundred and fifty.

Whereas, I, the said Joseph McMurray, have purchased from the said Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, the vessel or steamboat John Jay, built in New York, in the year of our Lord one thousand eight hundred and thirty-one, of the burthen of one hundred and thirty-one tons, or thereabouts, the title or bill of sale to which vessel or steamboat has been duly and lawfully transferred and conveyed by them to me, and placed in my name simultaneously with the due execution and delivery of these presents; and in consideration of said purchase and transfer to me and in my name, of said vessel or steamboat John Jay, I have engaged and agreed to pay the said Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, the sum of six thousand dollars, lawful money of the United States of America, on the terms and conditions following, that is to say:

1st. One thousand dollars on the execution and delivery of these presents and said bill of sale.

2d. The remaining five thousand dollars in my promissory notes, payable in equal instalments or amounts of six hundred and twenty-five dollars each, viz., dating from the date of these presents, and payable at three, six, nine, twelve, fifteen, eighteen, twenty-one, and twenty-four months after date, with interest added thereto at and after the rate of seven per centum per annum; and each of said notes is made payable to the order of Seba M. Bogert, Willaim J. Wilcox, and Leonard F. Fitch, being in all eight promissory notes, on which the interest, as aforesaid, amounts in the aggregate to the full sum of three hundred and ninety-three dollars and seventy-two cents—the said principal sum and interest making in the aggregate the full sum of five thousand

three hundred and ninety-three dollars and seventy-two cents, lawful money as aforesaid, more particularly specified as follows:

1st note, payable three months after date, with three dollars and ninety-three cents interest added to the principal sum of six hundred and twenty-five dollars, makes six hundred thirty-five dollars and ninety-three cents.

2d note, payable at six months after date, with twenty-one dollars and eighty-seven cents interest added to the principal sum of six hundred and twenty-five dollars, makes six hundred and forty-six dollars and eighty-seven cents.

3d note, payable nine months after date, with thirty-two dollars and eighty-one cents interest added to the principal sum of six hundred and twenty-five dollars, makes six hundred and fifty-seven dollars eighty-one cents.

4th note, payable twelve months after date, with forty-three dollars and seventy-five cents interest added to the principal sum of six hundred and twenty-five dollars, makes six hundred and sixty-eight dollars and seventy-five cents.

5th note, payable fifteen months after date, with fifty-four dollars and sixty-eight cents interest added to the principal sum of six hundred and twenty-five dollars, makes six hundred and seventy-nine dollars and sixty-eight cents.

6th note, payable eighteen months after date, with sixty-five dollars and sixty-two cents interest added to the principal sum of six hundred and twenty-five dollars, makes six hundred and ninety dollars and sixty-two cents.

7th note, payable twenty-one months after date, with seventy-six dollars and fifty-six cents interest added to the principal sum of six hundred and twenty-five dollars, makes seven hundred and one dollars fifty-six cents.

8th note, payable twenty-four months after date, with eighty-seven dollars and fifty cents interest added to the principal sum of six hundred and twenty-five dollars, makes seven hundred and twelve dollars and fifty-cents.

And whereas, in consideration of the premises and a condition thereof to secure the full and just payment of the said sum of five thousand dollars, with interest as aforesaid, amounting to the further sum of three hundred and ninety-three dollars and seventy-two cents, making in the aggregate the full sum of five thousand three hundred and ninety-three dollars and seventy-two cents, lawful money as aforesaid.

Know all men by these presents, that I, Joseph McMurray, owner of the vessel or steamboat John Jay, have sold, assigned, transferred, and set over, and do hereby sell, assign, transfer, and set over to Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, aforesaid, the said vessel or steamboat John Jay, her tackle, apparel, furniture, boats, machinery, and all appurtenances and equipments: Provided, however, that this instrument is intended to operate only as a mortgage to secure the full and just payment of the eight promissory notes afore-

said, given in consideration of the purchase money of said vessel or steamboat as aforesaid.

With this express proviso, that when I, the said Joseph McMurray, shall pay, or offer to pay, to the said Seba M. Bogert, William J. Wilcox, Leonard F. Fitch, or either of them, any of the notes at maturity, than simultaneously with the payment thereof, or offer to pay, the amount so paid shall be legally endorsed on this bond or instrument as satisfaction in part thereof, and the note delivered up to me. And another express proviso of this bond or instrument is, that I, the said Joseph McMurray, may, at any time in my option, pay any one or more of said notes before the maturity thereof to the said Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, they or either of them is bound to accept such payment, abating from such note or notes interest for the time unexpired on said note or notes, and endorse on this instrument as aforesaid, and deliver to me the said note or notes; in default thereof, all further interest from the day of such payment or offer to pay shall wholly cease and determine. And as a further security in the premises, I, the said Joseph McMurray, agree and engage to insure said vessel or steamboat, and deliver to the said Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, within fifteen days from the date of these presents, a policy or policies therefor to the amount of at least five thousand five hundred dollars; and when the policy or policies so first given shall expire, the insurance to be renewed during the continuance of this instrument, to an amount of not less than ten per centum more than the sum due thereon at the time of renewal; and loss, *is* any, to be payable to them or their order.

With this express proviso, that in case of loss or damage to said vessel or steamboat, such sum or sums as they, the said Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, may receive and be paid by reason of such insurance and such loss or damage, shall be applied—

1st, to the payment in full of said five thousand dollars, with interest only to the day of such application, or to such part thereof as may remain unpaid; and

2d, the balance, if any, shall immediately be paid to me, the said Joseph McMurray, or my order.

In testimony whereof, I have hereunto set my hand and seal, the day and year above written.

J. McMURRAY.

Signed, sealed, and delivered, in presence of—
JAS. LAWSON,
ROBERT B. CAMPBELL.

And it is further conditioned of this instrument, that during the time that this instrument remains unsatisfied in whole or in part, it is to be deposited in the North River Bank, in the city of New York; and that the cashier of said bank is authorized to endorse on this instrument, according to its tenor, the amount of the note or notes as they are respec-

tively paid; and that it shall not be withdrawn therefrom without the written consent of the said Joseph McMurray, unless he shall be in default according to the conditions thereof.

Dated at the city of New York, May 8th, 1850.

D. F .FITCH,
W. J. WILCOX,
S. M. BOGART.

Witnesses—
JAS. LAWSON,
D. B. CAMPBELL.

UNITED STATES OF AMERICA,
State, city, and county of New York.

Know all men by these presents, that on the eighth day of May, A. D. one thousand eight hundred and fifty, before me, Robert B. Campbell, a public notary of the State of New York, under the great seal of the said State, duly commissioned and sworn, and residing in the city of New York, personally appeared and presented themselves, Joseph McMurray, Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, to me known to be the individuals described in and who executed the foregoing instrument, and severally acknowledged to me that they executed the same. In testimony whereof I have subscribed these presents, and caused my notarial seal of office to be hereunto affixed, the day and year first above written.

[SEAL.]

ROBERT B. CAMPBELL,
Notary public.

(Endorsed.)

9—19. U. S. district court. Seba M. Bogert et al. vs. The steamboat John Jay, her tackle, &c.

W. A. Seely, Pr. Copy libel. Filed December 13th, 1850.

And files a stipulation for costs.

District court of the United States, for the southern district of New York.

Filed the 13th day of December, 1850.

Stipulation for libellants' costs, entered into pursuant to the rules and practice of this court.

Whereas a libel was filed in this court on the thirteenth day of December, in the year of our Lord one thousand eight hundred and fifty, by Seba M. Bogert et al. against the Steamboat John Jay, her tackle, &c., for the reasons and causes in the said libel mentioned, and praying that the said steamboat may be condemned and sold to pay the demands of the libellant; and the said libellant and Samuel Hiscox, surety, parties hereto, hereby consenting and agreeing, that in case of default or contumacy on the part of the libellants, or their surety,

execution may issue against their goods, chattels, and lands, for the sum of two hundred and fifty dollars.

Now, therefore, it is hereby stipulated and agreed for the benefit of whom it may concern, that the stipulators undersigned shall be, and each of them is bound in the sum of two hundred and fifty dollars, conditioned that the libellant above named, shall appear and answer to the cause, and to interrogatories, and shall pay all such costs as shall be awarded against them by this court, or in case of appeal by the appellate court.

SEBA M. BOGERT,
SAMUEL HISCOX.

Taken and acknowledged this 13th day of December, 1850, before me,

GEO. W. MORTON, *U. S. Com'r.*

SOUTHERN DISTRICT OF NEW YORK, *ss.*

Samuel Hiscox, party to the above stipulation, being duly sworn, doth depose and say, that he resides in the city of New York; that he is worth the sum of two hundred dollars, over and above all his just debts and liabilities.

SAMUEL HISCOX.

Sworn to this 13th day of December, 1850, before me,
GEO. W. MORTON, *U. S. Com'r.*

SOUTHERN DISTRICT OF NEW YORK, *ss.*

The President of the United States of America, to the marshal of the southern district of New York, greeting:

Whereas a libel in rem and personam hath been filed in the district court of the United States, for the southern district of New York, on the thirteenth day of December, in the year of our Lord one thousand eight hundred and forty, by Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, against the Steamboat John Jay, her tackle, &c., for the reasons and causes in the said libel mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons interested in the said steamboat or vessel, her tackle, &c., may be cited in general and special, to answer the premises, and all proceedings being had that the said steamboat or vessel, her tackle, &c., may, for the causes in the said libel mentioned, be condemned and sold to pay the demands of the libellant.

You are therefore hereby commanded, to attach the said steamboat or vessel, her tackle, &c., and to detain the same in your custody, until the further order of the court respecting the same, and to give due notice to all persons claiming the same, or knowing or having any thing to say why the same should not be condemned and sold pursuant to the prayer of the said libel, that they be and appear before the said court, to be held in and for the southern district of New York, on the

thirty-first day of December, at eleven o'clock in the forenoon of the same day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same, and to make their allegations in that behalf; and what you shall have done in the premises, do you then and there make return thereof together with this writ.

Witness the honorable Samuel R. Betts, judge of said court, this thirteenth day of December, in the year of our Lord one thousand eight hundred and fifty, and of our independence the seventy-fifth.

J. W. METCALF, *Clerk.*
W. A. SEELY,
Proctor for libellant.

Monition returnable December 31st, 1850.

W. A. SEELY,
Proctor for libellant.

Filed December 31, 1850.

I hereby depute Chs. A. Kackrelwitz to execute the within process. Dated 13th December, 1850.

H. F. TALLMADGE,
U. S. marshal.

In obedience to the within monition, I attached the steamboat therein described, on the 13th day of December, 1850, and have given due notice to all persons claiming the same that this court will, on the 31st day of December, instant, (if that day should be a day of jurisdiction; if not, on the next day of jurisdiction thereafter,) proceed to the trial and condemnation thereof, should no claim be interposed for the same.

H. F. TALLMADGE,
U. S. marshal.

Dated 31st December, 1850.

District court of the United States, for the southern district of New York.

Filed the 17th day of December, 1850.

Stipulation entered into pursuant to the rules and practice of this court.

Whereas a libel was filed in this court on the thirteenth day of December, in the year of our Lord one thousand eight hundred and fifty, by Seba M. Bogert and others against the Steamboat John Jay, her tackle, &c., for the reasons and causes in the said libel mentioned, and praying that the said steamboat, her tackle, &c., may be condemned and sold to pay the demands of the said libellants, and the parties hereto hereby consenting that in case of default or contumacy on the part of the claimants or their sureties, execution for the sum of two hundred and fifty dollars may issue against their goods, chattels and lands.

1116.

And whereas, also, a claim is about to be filed in said cause by George Logan; now therefore it is hereby stipulated and agreed, for the benefit of whom it may concern, that the stipulators undersigned shall be, and are hereby, bound in the sum of two hundred and fifty dollars, conditioned that the claimants above named shall pay all costs and expenses which shall be awarded against them by the final decree of this court, or upon an appeal by the appellate court.

GEORGE LOGAN,
F. DUNCAN,
NELSON PLACE.

Taken and acknowledged, this 17th day of December, 1850, before me,
GEORGE W. MORTON,
United States Commissioner.

SOUTHERN DISTRICT OF NEW YORK, *ss.*

Fleming Duncan and Nelson Place, parties to the above stipulation, being duly sworn, depose and say, and each for himself saith, that he is worth the sum of five hundred dollars, over and above all his just debts and liabilities.

F. DUNCAN,
NELSON PLACE.

Sworn to, this 17th day of December, 1850, before me,
GEORGE W. MORTON,
United States Commissioner.

District court of the United States, for the southern district of New York.—In admiralty.

Filed the 17th day of December, 1850.

Stipulation entered into pursuant to the rules and practice of this court.

Whereas a libel was filed on the thirteenth day of December, in the year of our Lord one thousand eight hundred and fifty, by Seba M. Bogert and others against the Steamboat John Jay, her tackle, &c., for the reasons and causes in the said libel mentioned; and whereas the said steamboat, her tackle, &c., is in the custody of the marshal under the process issued in pursuance of the prayer of said libel, and by a consent signed by the proctors for the libellants, it has been agreed to discharge the said vessel from custody, on executing stipulation for costs and value, the latter in the sum of five thousand dollars, as appears from said consent now on file in said court; and the parties hereto hereby consenting and agreeing that in case of default or contumacy on the part of the claimant, or their sureties, execution for the above amount may issue against their goods, chattels and lands.

Now, therefore, the condition of this stipulation is such, that if the stipulator undersigned shall at any time, upon the interlocutory or final

order or decree of the said district court, or of any appellate court to which the above named suit may proceed, and upon notice of such order or decree to Francis Byrne, esquire, proctor for the claimants of said steamboat, &c., abide by and pay the money awarded by the final decree rendered by the court, or the appellate court, if any appeal intervene, then this stipulation to be void, otherwise to remain in full force and virtue.

GEORGE LOGAN,
FRANCIS DUNCAN,
NELSON PLACE.

Taken and acknowledged, this 17th day of December, 1850, before me,
GEO. W. MORTON,
United States Commissioner.

SOUTHERN DISTRICT OF NEW YORK, *ss.*

Fleming Duncan and Nelson Place, parties to the above stipulation, being duly sworn, depose and say, and the said Fleming Duncan deposes and says, that he is worth the sum of sixteen thousand dollars, and the said Nelson Place that he is worth the sum of four thousand dollars over and above all his just debts and liabilities.

F. DUNCAN,
NELSON PLACE.

Sworn to, this 17th day of December, 1850, before me,
GEO. W. MORTON,
United States Commissioner.

SEBA M. BOGERT et al.
vs.
THE STEAMBOAT JOHN JAY, her tackle, &c. } 9—19.

On reading consent to stipulate, and the terms being complied with, ordered that the vessel be discharged from custody.

Consent and stip. for costs and value.

United States district court.

SEBA M. BOGERT et al.
vs.
THE STEAMBOAT JOHN JAY, her tackle, &c. } 9—19.

I hereby consent that the above vessel be discharged from the custody, on the claimants executing stipulations for costs and value, the latter in the sum of five thousand dollars, to be signed by Fleming Duncan and Nelson Place; Duncan to justify in sixteen thousand dollars before the commissioner, the claimants paying into court the costs of the officers of court to the time of stipulating.

December 18th, 1850.

W. A. SEELY, *Proctor for libellants.*

I consent to appear and answer the libel on file, on or before the 31st inst., and to waive publication of notice by the marshal.

Pr. for cl't.

December 18th, 1852.

Endorsed: 9—19. U. S. district court.
Seba M. Bogert et al. *vs.* The Steamboat John Jay, her tackle, &c.
Consent to stipulate.

W. A. SEELY, *Proctor.*

Filed December 18th, 1852.

The claimant appears, and his answer:

UNITED STATES OF AMERICA.

District court of the United States, for the southern district of New York, in the second circuit.—In admiralty.

THE STEAMBOAT JOHN JAY, her tackle, apparel, engines, machinery and appurtenances,
ads.
SEBA M. BOGERT, William J. Wilcox and Leonard F. Fitch.

Of the 31st day of December, of December term, in the year of our Lord, 1850.

To the honorable Samuel R. Betts, district judge of the United States, in and for the district aforesaid:

The answer and claim of George Logan, of the city, county and State of New York, within the district aforesaid, grocer, intervening for his interest, to the libel filed by Seba M. Bogert, William J. Wilcox & Leonard F. Fitch, libellants, against the said Steamboat John Jay, her tackle, apparel, engines, machinery and appurtenances, alleges as follows:

First. That he claims the said steamboat, her tackle, apparel, engines, machinery, and appurtenances; and states, that he is the true and bona fide owner thereof, and that no other person is the owner thereof.

Secondly. He denies the jurisdiction of this court to hold cognizance of this action, or the course thereof, as stated in the libel exhibited as aforesaid, or to grant the relief prayed for, and excepts thereto; inasmuch as he is advised, that neither the contract set forth in said libel, nor the breach thereof, show a maritime contract, or a maritime cause of action.

Thirdly. That he has no knowledge of the facts set forth in the first, second, third, and fourth articles of said libel, or the particulars thereof, other than derived therefrom, and he can neither admit nor deny the same; and therefore leaves the same to be proved in such manner as the said libellants may be advised.

Fourthly. That he is advised by counsel, and verily believes to be true, that the fifth article of the said libel is incorrect in the conclusion arrived at.

Fifthly. That the said steamboat, her tackle, machinery, engines, apparel, furniture, and appurtenances, were purchased by this libellant, before this action was commenced, without any notice of any lien or claims thereon, and in good faith; that she was built for river navigation, and at the time of her purchase by this claimant she was, and now is, engaged in towing vessels in the harbor of the said city of New York.

Sixthly. He denies that all or singular the premises mentioned in said libel are within the admiralty and maritime jurisdiction of the United States or of this honorable court.

Wherefore this claimant prays that this honorable court will, for the want of jurisdiction, for the reasons aforesaid given, and upon the merits aforesaid shown by him, dismiss the said libel, with the costs of this claimant in and about his claim and defence sustained, or for such other decree as shall appear just and equitable in the premises.

GEORGE LOGAN,
F. BYRNE,
Proctor for claimants.
J. F. MALCOLM, *Advocate.*

UNITED STATES OF AMERICA,
Southern district of New York, city and county of New York.

Be it remembered, that on this twenty-eighth day of December, A. D. 1850, before me, personally appeared, at the city hall of the said city, the above named George Logan, and made solemn oath that he had heard read the aforegoing claim and answer by him subscribed, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters which are therein stated to be on information or belief, and as to those matters he believes it to be true.

J. W. METCALF, *U. S. Comm'r.*

Endorsed: 9—19. U. S. district court. In admiralty.
The Steamboat John Jay, her tackle, &c., ads. Seba M. Bogert.
Answer and claim.

F. BYRNE, *Proctor.*

Filed December 31, 1850.

Saturday, Jan'y 25, 1851, the libellant files his replication.

In the district court of the United States of America, in and for the southern district of New York.—In admiralty.

The replication of Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, libellants of the steamboat "John Jay," of New York, her tackle, apparel, engines, machinery, and appurtenances, to the claim and answer of George Logan, claimant and respondent.

The repliants allege and aver, and will maintain and prove, their

said libel to be true, certain, and sufficient, and that the said claim and answer of the said claimant and respondent is uncertain, evasive, untrue, and insufficient, and especially as to so much of said claim and answer of said claimant and respondent "secondly," fifthly, and "sixthly" made, wherein he denies the jurisdiction of this court to hold cognizance of this action, or the cause thereof, as stated in the libel as aforesaid, or to grant the relief prayed for, and excepts thereto; inasmuch as he is advised, that neither the contract set forth in the said libel, nor the breach thereof, show a maritime contract or a maritime cause of action, and alleges that said steamboat was "built for river navigation, and at the time of purchase by claimant she was used, and is now engaged, in towing vessels in the harbor of the said city of New York;" and also "denies that all and singular the premises mentioned in said libel are within the admiralty and maritime jurisdiction of the United States, or of this honorable court."

These repliants allege and aver, that said steamboat "John Jay" is of the burthen of one hundred and thirty-one tons and eighty-five ninety-fifths, and was built at New York aforesaid, in the year one thousand eight hundred and thirty, and not for river navigation exclusively, but for employment in business of commerce and navigation on the high seas, and in the bays and rivers in the vicinity of New York, and elsewhere in the United States, and in the coasting trade of the United States, and was engaged in such employment prior, and up to, and at the time of the sale thereof by libellants to said McMurray, and the contemporaneous hypothecation and mortgage thereof, by said McMurray to them, as stated in said libel; and was at the said time duly enrolled at the custom-house of the United States, for the district and port of New York, and duly licensed at the same custom-house to carry on the coasting trade of the United States, for one from the seventeenth day of May, one thousand eight hundred and forty-nine; which license was in force at said hire. And that after said sale, and on the twenty-fifth day of May, one thousand eight hundred and fifty, said McMurray obtained the enrolment of said steamboat in his own name, as sole owner thereof, at the same custom-house, and a new license for said steamboat to carry on the coasting trade aforesaid for one year, from the said twenty-fifth day of May, one thousand eight hundred and fifty, which enrolment and license were not surrendered to said custom-house until after the institution of this suit; and after said steamboat was attached, by virtue of the process issued therein, by order of this honorable court, and not until the seventeenth day of December, one thousand eight hundred and fifty, when, as repliants were informed and believe, and therefore allege and aver, the said claimant and respondent surrendered the same to said custom-house, and under an alleged transfer to him of the whole of said boat, by said McMurray, by bill of sale hereinafter particularly described, then exhibited to the collector of the customs, for said district and port, at said custom-house, and recorded in his office, and bearing date December second, one thousand eight hundred and fifty, obtained a new enrolment, and a

new license to carry on the coasting trade for one year from the date thereof.

And these repliants allege, aver, and insist, that the said contract stated in said libel was, and is, a maritime contract, and under the law of the land constitutes a legal hypothecation and discharge of, and lien upon, said steamboat John Jay, her tackle, &c., as aforesaid, for the amount of said purchase money for said steamboat unpaid, as stated in said libel, under and by force of the rules and principles of maritime and admiralty law of the United States, and is a cause of action subject to be prosecuted in, and enforced by, courts of admiralty of the United States, and that this honorable court had and hath full jurisdiction to hold cognizance thereof, and of this action, and to grant the relief prayed for by these repliants in their said libel, or such other relief, according to the rules and practice of such courts, as may be deemed just and meet in this cause, and notwithstanding the allegation to the contrary thereof in the said claim and answer made as aforesaid. And these repliants expressly deny, that the allegation of the said claimant and respondent, in his aforesaid claim and answer, was so made "the true and bona fide owner of said steamboat John Jay, &c., and that no other person is (was) the owner thereof," was, or is, true as therein stated.

And these repliants expressly deny that the allegation of the said claimant and respondent in his aforesaid claim and answer (thirdly) made, that when the said claim and answer was made, he had "no knowledge of the facts set forth in the first, second, third, and fourth articles of the said libel, or the particulars thereof, other than is derived therefrom, and he can neither admit or deny the same," was or is true as therein made; and these repliants expressly allege and aver, that at the said time said claimant and respondent had full information and knowledge of material facts and circumstances set forth; and of the particulars thereof, otherwise than from said libel derived, and well knew the same to be truly and correctly set forth in said libel, and could have truly admitted, and should have admitted the same in and by his answer to be true.

And these repliants, especially as to so much of said claim and answer of said claimant and respondent fourthly made, and wherein he states that he is advised by counsel and verily believes to be true, that the fifth article of the said libel is incorrect in the conclusion arrived at, insist that the same was evasive, uncertain, and insufficient; and repliants allege and aver, that the said fifth article, and the matter therein propounded, were and are correct and true, and that (as is alleged in said libel) by reason of the premises therein, and in the previous articles of said libel stated, and by virtue of the condition of the bond or instrument therein mentioned, the title to said steamboat, &c., had become forfeited by said McMurray to said libellants, and had become and was absolutely vested in them; and these repliants allege and aver, that by reason of the same premises not only the title to said steamboat held by said McMurray, but the title of all other persons claiming un-

der or through him, the said McMurray, became and was forfeited to repliants, and became and was absolutely vested in them *in them* in like manner prior to the institution of this action; and these repliants admit, that notwithstanding such absolute forfeiture to them by the laws of the land and the rules and usages of courts of admiralty in suits for the enforcement of such forfeiture, the said McMurray, or any person claiming under him, may by such courts be allowed to redeem such steamboat, &c., from such forfeiture, by satisfaction of all amounts for which said steamboat was bound and remaining unpaid, together with all legal costs; and repliants in this respect submit to this honorable court, and consent to such decree as the court may deem just, and by which the unpaid purchase money for said steamboat, &c., due and to become due to them as aforesaid, be held a lien upon said steamboat, &c., and enforced accordingly by sale of said steamboat, &c., to satisfy the same, or otherwise as said court may decide; and to which end these repliants allege and aver said libel was filed by them, and they file herewith their said evidences of and securities for the said debt and claim, subject to the disposition of this court.

And these repliants, especially as to so much of said claim and answer of said claimant and respondent fifthly made, and wherein he says that said steamboat, &c., was purchased by this (the said) claimant before this action was commenced, (i. e., before December thirteenth, one thousand eight hundred and fifty,) without any notice of any lien or claim thereon and in good faith, insist that the same is evasive, equivocal, uncertain, and insufficient, in so much as the time of purchase and the name of the vendor of said steamboat, &c., to said claimant and respondent, and whether such vendor was said McMurray or another person, and the mode and manner of the transfer or conveyance of said steamboat, &c., to said claimant and respondent, and by whom made, and the day of the execution of the instrument of transfer, and the day the same bears date, and the consideration therefor, and how and to whom, and when paid, and whether the same was a valuable and lawful consideration, and the fact that said claimant and respondent had full information and knowledge, and actual notice of the debt to these repliants, and the character thereof, and the security taken thereof, (which claimant and respondent contends is not a legal lien or claim upon said steamboat, &c., before any transfer or conveyance in legal form of said steamboat, &c., by said McMurray, and before payment of any consideration therefor by said claimant and respondent, and also the circumstances under which said claimant and respondent obtained possession of said steamboat, &c., and of her papers, and procured new papers therefor in his own name as the owner thereof, as hereinafter stated, were and are suppressed in said claim and answer as aforesaid, and were and are sought to be evaded and canceled in the same as aforesaid; and these repliants allege and aver, that said claimant and respondent was when said McMurray purchased said steamboat, &c., and yet is son-in-law of said McMurray; and that the counting-house or place of business of both of them was where said McMurray

purchased said steamboat; and during the time he had the same at the same place, to wit, number sixty-nine, South street, New York, that they were intimate associates and had many business transactions with each other and connected with said steamboat, and that said claimant and respondent was well acquainted with the business affairs and concerns of said McMurray during all said time, and had full information and knowledge as to the sale and transfer of said steamboat, &c., by these repliants to him, and of the purchase money to be paid by him therefor; and the evidence of said debt and securities taken for the same, and all the circumstances relating thereto as aforesaid, and of part of said purchase money being unpaid as aforesaid, and of the dishonor and non-payment of the promissory note for six hundred forty-seven eighty-seven hundredths dollars, part of said purchase money due eleventh of November, one thousand eight hundred and fifty, and knew that said McMurray had then become embarrassed in his pecuniary concerns, and was in fact insolvent; and these repliants further allege and aver, that after said default by said McMurray in the payment of said purchase money when due as aforesaid, an indenture between him as party of the first part, and one Fleming Duncan and said George Logan, (the said claimant and respondent,) parties of the second part, was executed under the hands and seals of said parties, respectively, which deed bears date December second, one thousand eight hundred and fifty, (and the execution whereof was duly acknowledged by all such parties, December third, one thousand eight hundred and fifty,) and that said deed recites the indebtedness of McMurray in considerable sums of money, and that he had become unable to pay the same with punctuality or in full, and alleges his desire to make a fair and equitable distribution of his property and effects among his creditors; and purports in consideration thereof, and of one dollar to him paid by said parties of the second part, to convey and assign to them and their heirs and assigns, forever, all and singular the real estate, and personal estate, and personal property and effects of said McMurray, enumerated and described in a certain schedule A, annexed to said deed, (reserving only certain goods and chattels, household furniture, &c., for the use of himself and family mentioned in said deed.) In trust, however, to convert said estate, property, and effects into money, and after discharging taxes and expenses with any residue of the proceeds if sufficient, first, to pay certain alleged debts of said McMurray to said Fleming Duncan and to other persons referred to in a certain other schedule annexed to said marked B, and if insufficient to pay such debts in full, payment to be made pro rata; and 2d, with any further such residue, if sufficient to pay certain other alleged debts of said McMurray, referred to in a certain other schedule annexed to said deed marked C, and if insufficient to pay such debts, payment to be made pro rata; and third, with any further such residue to pay all other debts of said McMurray then existing, whether due or to become due, and if insufficient to pay such debts in full, payment to be made pro rata; and said deed also stipulates that a certain mortgage by said McMurray to said Duncan upon part of said

real estate so conveyed, shall continue in full force; and repliants allege and aver that neither said claimant and respondent, nor these repliants, are mentioned or referred to in said deed or said schedules as creditors of said McMurray, and that the enumeration and description in said "schedule A," annexed to said deed of the property so assigned, specifies three-fourths interest in the steamboat John Jay, her boilers, machinery, &c., as owned by said McMurray and so assigned, and which is the same steamboat John Jay named in said libel; and that said specification is the only reference contained in said deed or schedules to said steamboat, &c., and that said deed contains an express declaration "that the parties of the second part hereby accept the said trusts upon the terms and conditions aforesaid;" and these repliants allege and aver that subsequently said claimant and respondent through said McMurray had so claimed as aforesaid to own but "three-fourths interest in said steamboat, &c., and had assigned the same as aforesaid, fraudulently procured him to assign and transfer by bill of sale to him, the said claimant and respondent solely," "the whole" of the aforesaid steamboat and appurtenances, which bill of sale bears date December second, 1850; and before the acknowledgment by said McMurray, and said Duncan and Logan, of said deed of trust on the 3d day of December, 1850, as aforesaid, but which bill of sale, as repliants are informed and believe, and therefore allege and aver, was executed and delivered after the institution of this action, and on or after the thirteenth day of December, 1850, and was antedated for the purpose of defrauding repliants in the premises; and these repliants allege and aver that the aforesaid deed of conveyance or assignment by said McMurray to said Duncan and Logan, of said "three-fourths interst in said steamboat, &c.," on trust, has never been recorded in the office of the collector of the customs of New York, where said steamboat was enrolled as aforesaid, as required by the act of Congress of 29th July, 1850, and that these repliants had no knowledge whatever of said deed of trust in said bill of sale, till since the filing of the said claim and answer of said claimants and respondent in this cause, on the thirty-first day of December, 1850; and these repliants have been informed and believe, and therefore allege and aver, that no conveyance or transfer by said McMurray of the one-fourth interest in said steamboat, besides said "three-fourths interest" mentioned in the said trust deed, but the said bill of sale made subsequently as aforesaid for "the whole" of said boat has been recorded in the office of said collector of the customs, and that in fact no conveyance or transfer in legal form of said one-fourth interest in said steamboat, &c., was ever made by said McMurray other than said alleged bill of sale to said claimant and respondent; and these repliants have been informed and believe, and therefore allege and aver, that no conveyance or transfer of the equal right and title with said claimant and respondent, had and held by said Fleming Duncan to said "three-fourths interest in said steamboat," &c., derived from said trust deed as aforesaid, has ever been recorded in the office of said collector of the customs, and that in fact no such conveyance or transfer

was ever legally made by said Fleming Duncan; and that said trust deed and the equal right and title of said Duncan of, in, and to said "three-fourths interest" in said steamboat, &c., derived therefrom, was suppressed and concealed from the said collector of the customs, by the *customs by the* said claimant and respondent, and that by the means aforesaid, said claimant and respondent having obtained possession of the enrolment and license of said steamboat, did on the seventeenth day of December, 1850, fraudulently procure from the collector of the customs aforesaid a new enrolment for said steamboat in his own name as sole owner thereof, and a new coasting license therefor, which are dated the said day last mentioned; and repliants allege, aver and insist that said claimant and respondent hath suppressed and sought to conceal the aforesaid facts in his said claim and answer in this cause; and these repliants expressly allege, aver and charge, that the sole and only consideration expressed in the said bill of sale by said McMurray to said claimant and respondent for the whole of said steamboat, &c., bearing date December second, 1850, is "the sum of six thousand dollars, lawful money of the United States of America;" stated in the said bill of sale to "have been in hand paid to said McMurray by said claimant and respondent, before the sealing and delivery" of said bill of sale, and that said bill of sale state that said McMurray, as sole owner of said steamboat, &c., thereby bargained, sold, assigned and transferred "the whole" of said steamboat, &c., to the said claimant and respondent, his executors, administrators and assigns; to have and to hold the same, to his and their only proper use, benefit and behoof forever; and which said bill of sale also contains a full covenant of warranty of title by said McMurray, for "the whole of said steamboat," &c., to said claimant and respondent, his heirs, executors, administrators and assigns, against all and every person and persons whatsoever; and these repliants allege, aver and charge, that said consideration stated in said bill of sale and said transfer made of "the whole" of said steamboat by said McMurray, and the aforesaid covenant of warranty therein contained, were and are utterly inconsistent with and irreconcilable to said deed of conveyance and assignment of three-fourths of said steamboat, &c., by said McMurray to said Duncan and Logan, with the trusts in said deed contained and so as aforesaid accepted and assumed by said Duncan and Logan; and that if said bill of sale was in other respects valid and legal, if made with the consent or concurrence of said Duncan, the same was and is in fraud of said deed and of said trusts therein stipulated, and of the conditions of said McMurray, for whose benefit said trusts were so made, and in fraud of these repliants; and if said bill of sale was so made without the consent or connivance of said Duncan, then it was also in fraud of said Duncan as the co-trustee named with said claimant and respondent in the said trust deed; and these repliants expressly allege and aver, that the said consideration of six thousand dollars, lawful money of the United States, stated as aforesaid in said bill of sale to have been in hand paid to said McMurray by said claimant and respondent before the delivery of said bill of sale, was and is wholly feigned and false, and that said

money was not so paid by said claimant and respondent as the consideration of said bargain, sale and transfer stated as aforesaid in said bill of sale; and these repliants expressly allege, aver and charge, that all said pretended purchases by, and assignments and transfers to, said claimant and respondent solely or with any other person, of said steamboat, &c., or of any part thereof, were without lawful or valuable consideration bona fide paid by said claimant, and were contrived by said McMurray and said claimant and respondent, and others in collusion with them, with the intent and for the purpose of embarrassing these repliants in the enforcement of their said claim and lien upon said steamboat, &c., for the amount of said purchase money unpaid as aforesaid, and to hinder and delay these repliants in the collection of their said debt from said McMurray, and to defraud them thereof and in said premises; and that by reason thereof and of all said premises, the aforesaid pretended purchases, assignments and transfers were and are fraudulent in fact and in law, and totally invalid, null and void; and the repliants expressly allege and aver, that said claimants and said respondent had not any other or different claim or title to or interest in said steamboat, &c., than is as aforesaid in this replication set forth, and that the same does not give to said claimant and respondent any right to appear before this honorable court and intervene in this cause, and dispute, contest or litigate the demand and claim of these repliants in their said libel set forth as aforesaid, which repliants humbly insist should be decreed by this honorable court; and repliants pray as in their said libel they have already prayed, and that they may recover their costs and charges against said claimant and respondent.

And these repliants annex to this replication the following documents and papers referred to in said libel and in this replication, viz:

Number 1. A copy of a bond upon which the coasting license granted May 17th, 1849, to said Steamboat John Jay, was obtained.

Number 2. A copy (recited and contained in bill of sale No. 6 thereof) of enrolment obtained for said steamboat by said McMurray, May 25th, 1850.

Number 3. A copy of the oath of said McMurray to obtain said enrolment.

Number 4. A copy of the coasting license granted May 25th, 1850, to said Steamboat John Jay.

Number 5. A copy of said deed of trust or assignment, bearing date December 2d, 1850, by said McMurray to Duncan & Logan, and of said schedules A, B, and C annexed, and of the certificate of acknowment of execution, dated December 3d, 1850, and of dower as to the property specified in said deed by Jane McMurray, executed with her husband, said McMurray, dated December 6th, 1850, and the certificate of the acknowledgment of the execution thereof, December 7th, 1850.

Number 6. A copy of bill of sale of said Steamboat John Jay, &c., by said McMurray to said George Logan, bearing date December 2d, 1850, reciting said enrolment (vide No. 2 hereof) of May 15th, 1850.

Number 7. A copy of enrolment obtained for said steamboat by said Logan, December 17th, 1850.

Number 8. A copy of oath of said Logan to obtain said enrolment.

Number 9. A copy of the coasting license granted December 17th, 1850, for said steamboat at the instance of said Logan.

Number 10. The original instrument made by said McMurray, May 8th, 1850, contemporaneously with the making of the bill of sale to him by repliants on the same day for said steamboat, &c., and by which instrument the said McMurray mortgages and hypothecates said steamboat, &c., and created a lien upon the same to repliants for the purchase money to be paid therefor by him.

Number 11. The seven original promissory notes for said purchase money remaining unpaid when said libel was filed, all dated May 8th, 1850, payable to the order of these repliants; and for the aggregate amount whereof, and interest that has or may accrue thereon, they claim to have a lien on said steamboat, &c., as stated as aforesaid; said notes being the notes numbered from two to eight inclusive, specified in said instrument of hypothecation or mortgage, which they pray may be considered as exhibits in this cause.

SEBA M. BOGERT.
W. A. SEELY,
Proctor, and of counsel for repliants.

UNITED STATES OF AMERICA,
Southern district of New York, ss.

Be it remembered, that on this twenty-fifth day of January, A. D. 1851, before me personally appeared, at the city hall of the said city, the above named Seba M. Bogert, and made solemn oath that he has heard read the aforegoing replication by him subscribed, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters which are therein stated to be on information and belief, and as to those matters he believes it to be true.

JOSEPH BRIDGHAM,
U. S. Commissioner.

District court of the United States of America, in and for the southern district of New York, in the second circuit.—In admiralty.

The duplication of George Logan to the replication of Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, replicants to the claim and answer of the Steamboat John Jay, her tackle, apparel, engines, machinery, and appurtenances.

This duplicant alleges and avers that he will prove his claim and answer to be true, certain, and sufficient, and the matters therein exceptively alleged to be sufficient to bar this court of the cognizance of this action, or from granting the relief prayed for in the libel therein, in manner and form as said matters are averred in the said claim and answer.

And this duplicant denies that the said contract stated in said libel is a maritime contract, or is, under the law of the State of New York, where the same was made legal, hypothecated or mortgage of, or a lien upon, said Steamboat John Jay, her tackle, &c., for the said purchase money, or any part thereof, or that, under and by force of the rules and principles of maritime and admiralty law of the United States of America, the same is a cause of action, and subject to be prosecuted in or enforced by courts of admiralty of the United States, or that this honorable court had or hath any jurisdiction to hold cognizance thereof, or of this action, or to grant the relief prayed for by the said replicants in their said libel; and he, the said duplicant, excepts and objects to the right of the said replicants to claim any other relief than as specifically prayed for in said libel, to be granted or allowed by this court to the said replicants, even if the said replicants should be entitled to the same as prayed for in said replication, if demanded by the said libel, which he, the said duplicant, expressly denies, as before he has denied.

And this duplicant denies that he had knowledge of the material facts or circumstances set forth, or of the particulars thereof alleged in the first, second, third, and fourth articles of the said libel, other than as derived by him from the said libel, and alleges that he could not have answered the same otherwise than he has before in his said claim and answer alleged.

And this duplicant denies that, by reason of any or either of the matters in the fifth article of said libel, or the matters therein propounded, or in any of the provisions of said libel stated, or by virtue of the conditions of the said bond or instrument therein mentioned, the title to said steamboat, her tackle, apparel, furniture, engines, boilers, or appurtenances, or any or either of them, became vested in the said replicants, or either of them, or that by reason of the same premises the title to the said steamboat held by Joseph McMurray, or the title of any other person claiming under or through him, the said McMurray, became or was forfeited to the said repliants, or became or was absolutely vested in them in any manner prior to the institution of this action.

And this duplicant excepts and objects to the right of the said replicants, by their said replication, to introduce new matter therein to change the nature or form of the action, as stated in said libel, or to claim a different right or title to relief upon the premises therein contained other than as charged, or prayed for, or stated in the said libel in this action, even if the said court should have the right to hold cognizance of the matters concerning the forfeiture and adjudication upon the title to said steamboat, &c., as alleged in said replication; which right this duplicant expressly denies.

And this defendant denies that he ever had any knowledge, actual or constructive, of the debt alleged to be due to the said repliants, or the alleged security therefor, before any transfer or conveyance in legal or other form of said steamboat by said McMurray, or before the pay-

ment of any consideration therefor by him, the duplicant; and he denies that he suppressed or concealed any circumstances under which he obtained possession of the said steamboat, &c., or of her papers, &c.

And this duplicant alleges and avers, that by the laws of the State of New York (where said contract and alleged mortgage were made) every mortgage on chattels is required to be filed in the office of the clerk of the city or town where the mortgagor resides, if he is a resident of the said , in order to be held as a lien against the claims of bona-fide purchasers or incumbrancers; and he alleges that, at the time of the execution of the said mortgage by the said Joseph McMurray, he, the said McMurray, was a resident of the city of Brooklyn, in the county of Kings, and State aforesaid; and that the said alleged mortgage was never filed, nor was the same recorded in the custom-house in the port of the city of New York, where said steamboat was enrolled, as required by the act of Congress of the United States of America, passed 29th July, 1850.

And this duplicant denies that he was or is son-in-law of the said Joseph McMurray, or had his counting-house or place of business connected with said McMurray, or that he, the said duplicant, was in anywise acquainted with the business affairs or concerns of said Joseph McMurray at any time, or had any knowledge of the several matters set forth in the said replication concerning the sale and transfer of said steamboat, &c., by the said replicants, or of the purchase money to be paid by the said Joseph McMurray therefor, or of the evidence of said debt or the securities taken for the same, or of any of the circumstances relating thereto, or of the non-payment of the said purchase money, or of the dishonor and non-payment of the promissory note for six hundred and forty-seven dollars and eighty-seven cents, part of the said purchase money due eleventh of November, 1850, or that he knew of the said McMurray having become embarrassed in his pecuniary concerns, and was in fact insolvent.

And this defendant alleges that said bill of sale to him of the whole interest of said steamboat was executed to him before the signature of the said deed of assignment of the property of the said Joseph McMurray, and on the same day of December, 1850, and at no other or different time, and was not antedated or otherwise altered; and he denies that he designed or committed any fraud in reference to the procuring of the said bill of sale in reference to the said steamboat, or his trust, as untruly stated in said replication.

And this duplicant alleges and avers, that several months before the date and execution of said deed of assignment, he became, and was, the bona fide and true owner of one-fourth of the said steamboat, &c., by purchase thereof from the said Joseph McMurray, and for which he paid to him, the said Joseph McMurray, the sum of fifteen hundred dollars.

And the said duplicant excepts and objects to the jurisdiction of this court to entertain cognizance of matters involving charges of the violation of fiduciary duties, and implicating persons, not parties, directly

or indirectly connected with this action as charged in the said replication; and he denies the right of this court to hold cognizance of matters relative to frauds, even if the persons accused were before the court in a proper proceeding, the cognizance whereof being, as he expressly insists, only peculiar to the courts having jurisdiction of matters of equity, and which courts, before the commencement of this action, existed, and now exist, in the State of New York.

And the said duplicant further denies and excepts to the right of the said repliants to involve in this action, as a matter for investigation, the fact or right of procuration of the enrolment or license obtained by him on the seventeenth day of December, 1850.

And this duplicant denies, that he fraudulently procured either said enrolment or license; and he denies that he did, or sought to conceal the facts in his said claim and answer concerning the obtaining of the said license or enrolment.

And this duplicant further denies and excepts to the right of the said repliants to impeach any transaction had between him and the said Joseph McMurray, in manner and form as alleged by the said repliants; and he denies that the said repliants are owners, or in any otherwise interested in this action, so as to have the right to present, to the consideration of the court, matters in reference to the title of said steamboat, or connected therewith, as alleged in said replication; and he objects to the jurisdiction of this court to hold cognizance of the said several matters in this article referred to.

And this duplicant excepts to the said several matters in the said replication last referred to, as being at variance and departure from the cause of action upon which the said libel was filed.

And this duplicant denies any frauds committed by him upon, or intent to defraud either the said repliants, or the said Fleming Duncan, or the creditors of the said Joseph McMurray.

And this duplicant further alleges and denies that the consideration upon which the said steamboat was sold to him was or is feigned or false, or that he colluded with the said Joseph McMurray, or any other person or persons, with the intent or for the purpose of embarrassing the said replicants in the enforcement of their alleged claim or asserted liens upon said steamboat, &c., or to hinder or delay the said repliants in the collection of their said debt from the said Joseph McMurray, or to defraud them thereof, or in any of the premises in said replication set forth.

And this duplicant avers and alleges that he paid the full value of the said steamboat, &c., to the said Joseph McMurray and to other persons having liens and claims upon the said steamboat, &c., before the commencement of this action, and before and at the time of the execution of the said bill of sale.

F. BYRNE,
Proc. for claimant.
CHAS. DONOHUE,
Advocate.

Endorsed: 9—19. U. S. district court. In admiralty.
The Steamboat John Jay, her tackle, &c., ads. Seba M. Bogert and others.

Duplication.
Filed March 4th, 1851.

F. BYRNE,
Proctor for claimants.

U. S. district court.

SEBA M. BOGART, WM. J. WILCOX, and LEONARD FISH,
versus
THE STEAMBOAT JOHN JAY.

Wednesday, April 6th, 1853.

This cause, being called in its on the calendar, ordered hearing.

SEBA M. BOGERT and others vs.	W. A. SEELY, for libellant. Mr. COULES, advocate.
THE STEAMBOAT JOHN JAY, GEORGE LOGAN, claimant.	F. BYRNE, for claimant. Mr. BETTS, advocate.

Wednesday, April 6th, 1853. Pleadings read.

Mr. Coules offers to read special replication. Mr. Betts objects. 3 Story, 108, 121. Judge Story holds that special replication not admissible unless called for by defendant. 7 Peters, 252; replication p. 260. Op'n of court, 274. Rejoinder filed. Cases in chancery. Repl. filed without leave of court. Mr. Coules: The objection is by surprise. Motion should be to take it from the files. Cl'k have filed a duplication and taken issue on the replication.

Thursday, April 7th. Continued.

May 8, 1850. Mortgage from Joseph McMurray, of Brooklyn, to the libellants; 6 promissory notes referred to in writing, same date. In evidence.

John A. Berry, (sworn.) Enrolment and license clerk in C. H. produces book of enrolment of vessels. Steam vessel John Jay was enrolled 17 May, 1849, in name of libellants. Coasting license issued same day to boat.

May 25, 1850, enrolled in name of Joseph McMurray.

Dec. 2, 1850, acknowledged. Dec. 3, recorded, 17; Bill of sale of boat from J. McMurray to George Logan, clerk.

Dec. 13, 1850, libel filed. Monition, and attached same; also return of marshal of arrest, dated that day. Ret'd 31 Dec.

Dec. 2, 1852, acknowledged. Dec. 3, assignment by Joseph McMurray to Fleming Duncan and George Logan, of all the property of assignee, specifying ¼ of this boat.

Dec. 1852, recorded in N. Y. and Kings co.

Defence.

Dec. 2, 1850, bill of sale acknowledged and recorded as above from McMurray to claimant, of whole interest in boat.

Admitted by libellant that his mortgage was not recorded in C. H. or State registry.

Nelson Place, (sworn.)—Ship broker and commission merchant. Knows McMurray and Logan. McMurray in last of May or first of June, 1850, then in possession of steamboat, told wit. he had sold for $500 ¼ of boat to claimant, and requested wit. to make out bill of sale. Witness made out bill of sale accordingly, and delivered it to McMurray; does not know that the money was paid. Knows Collins, bookkeeper of McMurray, and knows his handwriting (admitted subject to objection) giving credit on McMurray's books to Logan for $1500, dated November, 1850; charges to George Logan ¼ cost of steamboat, $1500.

McMurray left N. Y. between 1st and 10th Dec., 1850; after he went away, say a month subsequent, Logan had charge of the John Jay; cannot fix the time, not a long time.

Cross-examined.—Mr. Murray's place of business was South st., No. 69; Logan's was at same place. Witness knew McMurray was pressed in his circumstances before he went away, and understood he was involved after he left; went away in steamer Atlantic; thinks Collins came there as clerk that summer or spring. McMurray was 15 to 20 years in business at 69 South street, and Logan 4 or 5 years.

[Admitted by cl't that Logan took possession of all the property of Joseph McMurray he had at the time he left N. Y.]

Witness.—Mr. Murray ran the John Jay as a towboat after he bought her until he left the country; Logan had nothing to do with running her (to witness' knowledge) previous to McMurray's leaving; witness had knowledge of the settling of the account current; not present at any settlement or delivery of any copy to Logan.

Direct.—McMurray was in passenger business and consignee of vessels, up-stairs; witness' office on the same floor, and Logan kept a ship chandlery on the lower floor of same building.

Cross-examined.—Logan received passage money for ships to London; might be received for McMurray, but does not know.

May 8, 1850. Bill of sale from libellants to J. McMurray of boat. Enrolled 25th May, 1850.

Mr. Cowles argues for libellant.

Mr. Betts " " claimant.

Curia advisare vult.

Know all men by these presents, that we, Seba M. Bogart, 561, husband or managing owner and master of the steamboat John Jay, of New York, are held and stand firmly bound unto the United States of America in the full and just sum of one thousand dollars, for which payment well and truly we bind ourselves, our heirs, executors and

administrators, jointly and severally, firmly by these presents; sealed with our seals. Dated this 17th day of May, in the year of our Lord one thousand eight hundred and forty-nine.

The condition of the foregoing obligation is such, that whereas Cornelius W. Lawrence, collector of the district of New York, has, in the manner prescribed by the act entitled "An act for enrolling or licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same," issued and granted for the steamboat called the John Jay, of New York, burthern 131 $\frac{44}{95}$ tons, whereof S. M. Bogert is at present master, a license for carrying on the coasting trade for one year from the above date, which license is dated this day and numbered as above.

Now, therefore, if it shall appear within two years from the date hereof, that the said steamboat has, during the time license granted to said vessel remained in force, been employed in any trade whereby the revenue of the United States shall have been defrauded, then the said obligation shall be good and remain in full force, but otherwise, it shall be void and of no effect.

(Signed) SEBA M. BOGERT, [L. S.]
Surety, J. B. WOOD, [L. S.]
[L. S.]

Signed, sealed and delivered in the presence of
C. J. CARMAN.

CUSTOM-HOUSE, NEW YORK,
COLLECTOR'S OFFICE, *Jan'y 15th*, 1851.

This is to certify, that the foregoing is a true copy of the original license bond in this office.

Given under my hand and seal.

G. ELMINGER, *D. C.*

W. D. B. (Endorsed.)

No. II. Bond on which coasting license of John Jay was allowed, May 17, 1849.

9—19. Filed, Jan'y 25, 1851.

CUSTOM-HOUSE, NEW YORK,
COLLECTOR'S OFFICE, *Jan'y 15th*, 1851.

This is to certify, that the foregoing is a true copy of the original oath in this office.

Given under my hand and seal.

G. ELMINGER, *D. C.*

Know all men by these presents, that we, Joseph McMurray, are held and firmly bound unto the United States of America in the full and just sum of twelve hundred dollars, to which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally by these presents.

Witness our hands and seals, this 25th day of May, one thousand eight hundred and fifty.

The condition of the foregoing obligation is such, that whereas Hugh Maxwell, collector for the district of the city of New York, has issued and granted a certificate of enrolment in the manner prescribed by the act entitled "An act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same," for the steamboat called the John Jay, burthen 131$\frac{88}{95}$ tons, whereof Joseph Duvall is at present master; which certificate is dated the 25th May, one thousand eight hundred and fifty, and numbered 42. Now, therefore, if the said certificate of enrolment shall be solely used for the said steamboat for which it has been granted, and shall not be sold, lent or otherwise disposed of, to any person or persons whomsoever; and in case the said steamboat shall be lost or taken by any enemy, burnt or broken up, or shall be otherwise prevented from returning to the port to which she belongs, if the said certificate (if preserved) shall, within eight days after the arrival of the master or person having the charge or command of the said steamboat within any district of the United States, be delivered up to the collector of such district; or if any foreigner, or any person or persons for the use and benefit of such foreigner, shall produce or otherwise become entitled to the whole or any part or share of, or interest in, the said steamboat, the same being within a district of the United States, if the said certificate shall within seven days after such purchase, change or transfer of property, shall happen when the said steamboat shall be at sea, if the master or person having the charge or command thereof, shall, within eight days after his arrival within any district of the United States, deliver up the said certificate to the collector of such district, then the said obligation shall be void and of no effect; but otherwise shall remain in full force and virtue.

(Signed) J. McMURRAY, [L. S.]
Master, JOSEPH DUVAL, [L. S.]
Surety, JEPTHA B. PARKS. [L. S.]

Signed, sealed and delivered in the presence of
J. A. BAGLE.

PORT OF NEW YORK,
District of the city of New York, ss.

I, Joseph McMurray, of the city, county and State of New York, do solemnly swear, according to the best of my knowledge and belief, that the ship or vessel called the John Jay, of New York, is the burthen of 131$\frac{88}{95}$ tons, and was built at New York State aforesaid, in the year 1830, as per enrolment No. 34, issued at this port on the 17th May, 1849, now cancelled, property claimed; that the act of 7th July, 1838, as modified by the act of 3d March, 1843, has been complied with; that my present usual place of abode or residence is New York aforesaid; and that I am a citizen of the United States, and the true and

only owner of the said ship or vessel; that there is no subject or citizen of any foreign prince or State directly or indirectly, by way of trust, confidence or otherwise, interested therein, or in profits and issues thereof; and that Joseph Duvall is the present master or commander of the said ship or vessel.

Sworn to this 25th day of May, 1850.

I, , the present master of the above mentioned vessel, do that I am a citizen of the United States, having been

Endorsed: No. III. Oath and bond of J. McMurray, May 25th, 1850, to obtain enrolment. 9—19. Filed Jan'y 25, 1851.

Know all men by these presents, that we, 546, Joseph McMurray, husband or managing owner, and Joseph Duvall, master of the steamboat John Jay, of New York, are held and stand firmly bound unto the United States of America in the full and just sum of one thousand dollars, for which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals. Dated this 25th day of May, in the year of our Lord one thousand eight hundred and fifty.

The condition of the foregoing obligation is such, that whereas, Hugh Maxwell, collector of the district of New York, has, in the manner prescribed by the act entitled "An act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same, issued and granted for the steamboat called the John Jay, of New York, burthen 131$\frac{88}{95}$ tons, whereof Joseph Duvall is at present master, a license for carrying on the coasting trade for one year from the above date, which license is dated this day, and numbered as above. Now, therefore, if it shall appear within two years from the date hereof that the said steamboat has, during the time the license granted to said vessel remained in force, been employed in any trade whereby the revenue of the United States shall have been defrauded, then the said obligation shall be good and remain in full force, but otherwise it shall be void and of no effect.

(Signed) J. McMURRAY, [L. S.]
Master, JOSEPH DUVAL, [L. S.]
Surety, JEPTHA B. PARKS, [L. S.]

Signed, sealed and delivered in the presence of
J. A. BAGLE.

CUSTOM-HOUSE, NEW YORK,
Collector's Office, January 15th, 1851.

This is to certify, that the foregoing is a true copy of the original license filed in this office.

Given under my hand and seal.

W. D. B. G. ELMINGER, *D. C.*

[*No. 546.*]—*License of a steamboat or vessel to carry on the coasting trade for one year.*

DISTRICT OF THE PORT OF NEW YORK.

In pursuance of an act of the Congress of the United States of America, entitled "An act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same," Joseph Duvall, of the city, county and State of New York, having given bond that the steamboat called the John Jay, whereof the said Joseph Duvall is master, burthen one hundred thirty-one $\frac{31}{95}$ tons, as appears by her enrolment, dated at New York this 25th day of May, 1850, shall not be employed in any trade while this license shall continue in force, whereby the revenue of the United States shall be defrauded; and having sworn that the requisitions of an act entitled "An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam," have been complied with; and that this license shall not be used for any other vessel, nor for any other employment than hereby specified, license is hereby granted for the said steamboat to be employed in carrying on the coasting trade for one year from the date hereof, and no longer.

Given under our hands and seals of office, at the custom-house, this [SEAL.] 25th day of May, in the year one thousand eight hundred and fifty.

(Signed) JAMES T. TALMAN, *Deputy collector.*
(Signed) C. B. FRANKLIN, *Deputy, Naval office.*

Oath on obtaining a new license for a vessel.

DISTRICT OF NEW YORK, *Port of New York.*

I, Joseph Duvall, do solemnly swear that I am a citizen of the United States, and that license for the steamboat John Jay shall not be used for any other vessel or any other employment than that for which it is specially granted, or in any trade or business whereby the revenue of the United States may be defrauded.

(Signed) JOSEPH DUVALL.

Sworn to before me this 29th day of May, 1850.

, *Collector.*

CUSTOM-HOUSE, NEW YORK,
Collector's Office, January 16, 1851.

I certify the within to be a true copy of an original coasting license granted to the within named vessel, as per record in this office.

Given under my hand and seal of office, the day and year above mentioned.

G. ELMINGER, *D. collector.*

Endorsed: Exhibit IV. 9—19. Coasting license John Jay, and bond and oath, May 25th, 1850, to J. McMurray. Filed Jan'y 25th, 1851.

This indenture, made the second day of December, one thousand eight hundred and fifty, between Joseph McMurray, of the city of Brooklyn, County of Kings, and State of New York, merchant, party of the first part; and Fleming Duncan, of the village of Williamsburgh, in the said county, gentleman; and George Logan, of the city, county, and State of New York, grocer, parties of the second part:

Whereas, the said party of the first part is justly indebted in sundry considerable sums of money, and has become unable to pay and discharge the same with punctuality, or in full, and the said party of the first part is now desirous of making a fair and equitable distribution of his property and effects among his creditors: Now, therefore, this indenture witnesseth, that the said party of the first part, in consideration of the premises, and of the sum of one dollar to him in hand paid, the receipt whereof is hereby acknowledged, hath granted, bargained, and sold, and by these presents doth grant, bargain, and sell, release, assign, transfer, and set over unto the said parties of the second part, and to their heirs and assigns forever, all and singular the lands, tenements, and hereditaments, situate, lying, and being in the city and county of New York, and in the city of Brooklyn, and county of Kings, aforesaid, and all the goods, chattels, merchandise, accounts, claims, demands, choses in action, judgments, evidences of debt, and all other property, of every name and nature whatsoever, of the said party of the first part, more particularly enumerated and described in the schedule hereto annexed, marked "schedule A," saving and reserving, however, such goods, chattels, beds, bedding, furniture, and effects as are reasonable and proper and necessary for domestic use for himself and family, and being such only as are exempt from execution: to have and to hold the same, and every part and parcel thereof, with the appurtenances, unto the said parties of the second part, their heirs, executors, administrators, and assigns, in trust, nevertheless, and to and for the following uses, intents, and purposes—that is to say, that the said parties of the second part shall take possession of all and singular the lands, tenements, and hereditaments, property, and effects, hereby assigned, (saving such goods and chattels as are exempt by law from execution as aforesaid,) and sell and dispose of the same and convert the same into money; and shall also collect all and singular the said debts, dues, accounts, claims, demands, and choses in action, or so much thereof as may prove collectable, and thereupon sign, seal, execute, acknowledge, and deliver all necessary deeds, conveyances, and instruments for the purposes aforesaid, and by and with the proceeds of such property-sales and collections the said parties of the second part shall pay all taxes and assessments due or to become due on the said lands, tenements, and hereditaments; the same shall be sold and disposed of, and by, and with the residue or net proceeds and avails of such sales and collections, the said parties of the second part shall—

First: Pay and discharge in full the several and respective debts and sums of money due or to grow due from the said party of the first part, or for which he is liable to the said Fleming Duncan, one of the par-

ties to the second part, and the several other persons referred to in the schedule hereto annexed, marked "schedule B," together with all interest, moneys due or to grow due thereon; and if said net proceeds and avails shall not be sufficient to pay and discharge the same in full, then such net proceeds and avails shall be distributed pro rata, and share and share alike, among the several persons named and referred to in said "schedule B," according to the amount of their respective claims.

Secondly: Pay and discharge in full the several and respective debts and sums of money due or to grow due from the said party of the first part, to the several persons designated in the schedule hereto annexed, marked "schedule C," together with all interest moneys due or to grow due thereon; and if said net proceeds and avails shall not be sufficient to pay and discharge the same in full, then such net proceeds and avails shall be distributed pro rata, share and share alike, among the several persons named in said "schedule C," according to the amount of their respective claims.

Thirdly: By and with the residue and remainder of the said net proceeds and avails, if any there be, the said parties of the second part shall pay and discharge all the other debts and liabilities whatsoever now existing, whether due or hereafter to become due: provided, such remainder shall be sufficient for that purpose; and if insufficient, then the same shall be applied pro rata, share and share alike, to the payment of the said debts, demands, and liabilities, according to their respective amounts.

And it is hereby expressly understood that the lien by mortgage executed by the said party of the first part, and wife to the said Fleming Duncan, one of the said parties of the second part, to secure the payment of the sum of seven thousand dollars (and mentioned in said schedule hereto annexed) and the rights thereunder, are not in any wise to be affected or diminished by the acceptance of the trust hereby created, nor in any manner to be released, discharged, or prejudiced; but the said sum so secured by said mortgage, and the interest due or to grow due thereon, is to be considered as payable and to enforced according to the terms of said mortgage and the bond therein described, and not liable to any abatement of the amount of said principal and interest.

And for the better execution of these presents and the several trusts hereby created, the said party of the first part doth hereby make, nominate, and appoint the said parties of the second part and their executors, administrators, and assigns, his true and lawful attorney, irrevocable, with full power and authority to do, transact and perform all acts, deeds, matters, and things which can or may be necessary in the premises, as fully and completely as the said party of the first part might or could do were the presents not executed; and attorneys, one or more, under them to make, nominate, and appoint, with full power of substitution and revocation, hereby ratifying and confirming all and every thing whatsoever that said attorneys and their attorneys shall do or cause to be

done in the premises. And the said parties of the second part hereby accept the said trusts upon the terms and conditions aforesaid.

In witness whereof, the said parties to these presents have hereunto set their respective hands and seals, the day and year first above written.

J. McMURRAY, [L. S.]
F. DUNCAN, [L. S.]
GEO. LOGAN, [L. S.]

Sealed and delivered in the presence of—
F. BYRNE.

CITY AND COUNTY OF NEW YORK, *ss:*

On this third day of December, one thousand eight hundred and fifty, before me, personally appeared Joseph McMurray, Fleming Duncan, and George Logan, to me known to be the same persons described in, and who executed, the aforegoing instrument, and severally acknowledged before me that they executed the same.

GEO. CARPENTER,
Commissioner of deeds.

Schedule A, referred to in the annexed assignment, viz:

Lot of ground and store, No. 69 South street, in the city of New York, subject to the mortgage and liens thereon.

Lot of ground and house thereon, No. 8 Ludlow street, in the city of New York, subject to the mortgage and liens thereon.

Eight lots of land on Smith and Dean streets, in the city of Brooklyn, and nine buildings thereon, subject to the mortgage and liens thereon.

Lot No. 97, Pierrepont street, Brooklyn, and house thereon, subject to the mortgage executed by the said party of the first part, and wife to the said Fleming Duncan, party or the second part, on the eleventh day of March, 1848, to secure to him the payment of the sum of seven thousand dollars and all interest now due or to grow due thereon; which said mortgage was recorded on the 20th day of March, 1848.

A judgment in the supreme court of this State, recorded by the said party of the first part, against Freeman DeGroot, on the 23d day of October, 1849, for $395 56.

A judgment in the said court, recovered against John Doran, on the twelfth day of August, 1850, for $353 24.

A claim against the barque Clarence, now in suit against her in the U. S. district court, in the southern district of New York, $756 38.

A claim against William Edmonds, now in suit in the said district court, for $395 78 and interest.

A claim against George B. Elkins, for $3,500, for the recovery of $2,462 of which a suit is now pending in the said supreme court.

Three-fourths interest in the steamboat "John Jay," her boilers, machinery, &c.

A bottomry bond on the British barque "Cremona," lately arrived at Acapulca, in Mexico, on the Pacific coast, $5,000.

1118.

Interest in the adventure, cargo, goods, and effects shipped by the said party of the first part on board of said vessel, and the proceeds thereof, about $15,000, and now in the hands of the agent of Acapulca, aforesaid.

Two iron safes, six desks, one counter, one stove, fourteen maps, and six chairs in the office of the party of the first part, at No. 69 South street, aforesaid.

The following household furniture and property in the house No. 97 Pierrepont street, Brooklyn, (deemed not exempt by law from execution,) viz:

Front basement.—Two silver-plated candlesticks, snuffers, and trays.

Front hall.—One hat stand, one clock, hall oil-cloth, one table, and two arm-chairs, two large piazza window-shades.

Parlor.—91 yards Brussels carpet, 7½ yards wide drugget, two rugs, two sofas, two work-stands, two mahogany breakfast-tables, two mahogany dining-tables, one mahogany secretary and book-case, one piano-forte cover and stool, one rocking-chair, eighteen mahogany chairs, one mahogany sewing-chair, two large globes, one picture, two parlor looking-glasses, two sets of girandoles or chandeliers, one set fire-irons and stands.

Second story, front bed-room.—French mahogany bedstead, mahogany bureau, one mahogany table, two large looking-glasses, four curled maple chairs, twenty-five yards three-ply ingrain carpet and rug, Japan coal box, set of fire-irons, two yards oil-cloth.

Back bed-room.—French mahogany bedstead, large mahogany wardrobe, one mahogany dressing-table, one mahogany bureau, French three-quarters mahogany bedstead, large bed-room chair, four curled maple chairs, one large looking-glass, thirty-nine and three-quarters yards Brussels carpet.

Small front bed-room.—Mahogany bedstead, mahogany dressing-table, one chair, one wash-stand, nine yards carpet.

Bath room.—Shower bath, wash-stand, water kettle, basin and pitcher, two tubs, and oil-cloth.

On stairs.—Twenty-four yards Brussels stair carpet, eighteen stair-rods, twenty-four yards of chaste.

Attic.—One curled maple windlass bedstead, one looking-glass, 4 chairs, one carpet, one small stove, mahogany book bracket.

Third story, front bed-room.—Mahogany bedstead, mahogany crib, mahogany bureau, curled maple table, one mahogany wash-stand, twenty-six and one-half yards ingrain carpet, two window-shades, looking-glass, and two pictures.

Back bed-room.—French mahogany bedstead, dressing bureau, (marble top,) mahogany wash-stand, (marble top and fixtures,) mahogany pier table, six curled maple chairs, twenty-five yards ingrain carpet, one rug, two window-shades.

Small back bed-room.—Curled maple three-quarter bedstead.

Small front bed-room.—Large curled maple bedstead, two chairs, mahogany wash-stand, twelve yards Brussels carpet, stair carpet, (twenty-four yards,) fourteen stair-rods.

In the hall.—One table.

J. McMURRAY.

Schedule B.

Bond and mortgage on house and lot, 97 Pierrepont street, dated 11 March, 1848, according to the terms thereof - -	$7,000 00
Six months' interest thereon, due 11th September - -	245 00
Interest on said interest from the date it became due; promissory note of the party of the first part, favor of Fleming Duncan, party of the second part, dated, for - -	810 00
Amount due for passenger certificates from 1st January, 1849, to date, said certificates being for passages of nearly six hundred adults, and are particularly referred to in "emigrant ledger," 1849 and 1850 - - -	5,000 00
Drafts drawn by the said party of the first part in favor of nearly four hundred persons, and numbered from 739 to 1,114, both inclusive, and particularly mentioned in book marked "Provincial Bank of Ireland, 1850," about -	7,000 00

J. McMURRAY.

Schedule C.

Miss Ellen Traynor, $1,850 00; Hugh Hannah, $1,000 00; Alana Roe, $350 00; Mrs. Dolton, $500 00; said sums being for moneys borrowed by the said party of the first part; and said persons hold his acknowledgments therefor. Interest on said sums.

J. McMURRAY.

This indenture, made this sixth day of December, one thousand eight hundred and fifty, between Joseph McMurray, of the city of Brooklyn, county of Kings, and State of New York, merchant, and Jane, his wife, parties of the first part, and Fleming Duncan, of the village of Williamsburgh, in the county and State aforesaid, and George Logan, of the city and county of New York, and State aforesaid, parties of the second part, witnesseth: That the said parties of the first part, for and in consideration of the sum of one dollar to them in hand paid, the receipt whereof is hereby acknowledged, and for the purposes and considerations in the aforegoing indenture of assignment mentioned, and expressly subject to the terms and conditions in said assignment contained, have granted, bargained, sold, assigned, remised, released, and quitted claim, and by these presents do, for themselves, their heirs and assigns, grant, bargain, sell, assign, remise, release, and quit claim to all and singular the lands, tenements, hereditaments, and appurtenances of said parties of the first part, wheresoever situate, within this State or in any other place, and all their right, title, interest, dower, claim, and demand therein; to have and to hold the

1119.

same unto the said parties of the second part, their heirs and assigns forever, upon the trusts and conditions in said indenture of assignment contained, and without prejudice to the claims of the said Fleming Duncan, his executors, administrators, or assigns, as stipulated therein.

In witness whereof, the said parties to these presents have hereunto set their respective hands and seals, the day and year first above written.

J. McMURRAY, [L. S.]
JANE McMURRAY, [L. S.]

Sealed and delivered in the presence of—
C. H. THOMPSON.

CITY OF BROOKLYN,
County of King's, ss.

On this 7th day of December, A. D. 1850, before me, came Joseph McMurray and Jane, his wife, known to me to be the persons described in, and who executed, the foregoing instrument, who acknowledged that they executed the same; and the said Jane acknowledged, on a private examination separate and apart from her husband, that she executed the said instrument freely and without any fear or compulsion of her said husband.

C. H. THOMAS,
Comm'r of deeds.

STATE OF NEW YORK,
County of King's, ss.

I, Francis B. Stryker, clerk of the county of King's, do hereby certify, that Charles H. Thomas, whose name is subscribed to the certificate of proof or acknowledgment of the annexed instrument and thereon written, was, at the time of taking such proof or acknowledgment, a commissioner of deeds, in and for the city of Brooklyn, in the said county, dwelling in said city, commissioner, and sworn and duly authorized to take the same; and further, that I am well acquainted with the handwriting of such commissioner, and verily believe the signature to the said certificate of proof or acknowledgment is genuine.

In testimony whereof I have hereunto set my hand, and affixed the seal of said county, this 7th day of December, 1850.

FRANCIS B. STRYKER, *Clerk.*

Endorsed: Exhibit No. 5, J. Murray to T. Duncan and George Logan, No. 9—19, deed of assignment in trust for benefit of creditors. Filed January 25th, 1851.

To all whom these presents shall come, greeting:

Know ye, that Joseph McMurray, of King's county, State of New York, merchant, only owner of the steamboat or vessel called the John Jay, of New York, of the burthen of one hundred and thirty-one tons, or thereabouts, for and in consideration of the sum of six thousand dol-

lars, lawful money of the United States of America, to me in hand paid, before the sealing and delivery of these presents, by George Logan, of the city and State of New York, merchant, the receipt whereof I do hereby acknowledge, and therewith fully satisfied, contended, and paid, have bargained and sold, and by these presents do bargain and sell, unto the said George Logan, his executors, administrators, and assigns, the whole of the said steamboat or vessel, together with the whole of the mast, bowsprit, sails, boat, anchors, cables, and all other necessaries thereunto appertaining and belonging; the certificate of enrolment of which said steamboat or vessel is as follows, to wit:

No. 42.—*Enrolment.*

Permanent enrolment in conformity to an act of the Congress of the United States of America, entitled An act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same.

Joseph McMurray, of the city of Brooklyn, State of New York, having taken or subscribed the oath required by the said act, and having sworn that the requisitions of an act entitled "An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam," as modified by the act of 3d March, 1843, having been complied with; and also that he is a citizen of the United States, and sole owner of the steamboat or vessel called the "John Jay," of New York, whereof is at present master, and as he hath sworn is a citizen of the United States; and that the said steamboat or vessel was built at New York, State of New York, in the year one thousand eight hundred and thirty, as per enrolment No. 34, issued at this port on the 17th May, 1849, now cancelled, property changed.

And said enrolment having certified that the said ship or vessel has one deck, and no mast, and that her length is one hundred and four feet, her breadth nineteen feet ten inches, her depth 6 feet 10 inches, and that she measures one hundred thirty-one $\frac{8}{95}$ tons; and that she is square-sterned steamboat, has a round tuck, no galleries and head. And the said Joseph McMurray having agreed to the description and measurement above specified, and sufficient security having been given according to the said act, the said steam has been enrolled at the port of New York. Given under my hand and seal, at the port of New York, this 25th day of May, in the year one thousand eight hundred and fifty. To have and to hold the said steamboat "John Jay," and appurtenances thereunto belonging, unto him, the said George Logan, executors, administrators, and assigns, to the sole and only proper use, benefit, and behoof of him, the said George Logan, his executors, administrators, and assigns forever. And I, the said Joseph McMurray, have, and by these presents do promise, covenant, and agree, for heirs, executors, and administrators, to and with the said George Logan, heirs, executors, administrators, and assigns, to warrant and de-

fend the said steamboat "John Jay," vessel, and all the other before mentioned appurtenances, against all and every person or persons whomsoever.

In testimony whereof, I, the said Joseph McMurray, have hereunto set my hand and seal, this second day of December, one thousand eight hundred and fifty.

J. McMURRAY. [L. S.]

Sealed and delivered in the presence of—
SAM'L GODWIN.

STATE AND COUNTY OF NEW YORK.

Be it known, on the third day of December, in the year one thousand eight hundred and fifty, personally appeared before me, Samuel Godwin, a public notary, Joseph McMurray, and acknowledged the within bill of sale to be his free act and deed.

In testimony whereof I have hereunto set my hand and seal of of-
[L. S.] fice, the day and date first above written.

SAM'L GODWIN, *Not. pub.*

Received for record, and recorded the 17th Dec., 1850, at 1 o'clock, p. m.

JOHN H. BERRY, *Clerk.*

CUSTOM-HOUSE, NEW YORK,
Collector's office, Jan'y, 1851.

This is to certify, that the foregoing is a true copy of the original record in this office.

Given under my hand and seal.

G. EHERINGER & CO., *D. C.*

Endorsed: No. 6, containing and reciting No. 2, (copy,) Joseph McMurray to George Logan, bill of sale for the whole of steamboat John Jay, &c., dated Dec. 2d, 1850. No. 9—19.

Filed Jan'y 25, 1851.

No. 92.—*Enrolment—Permanent.*

Enrolment in conformity to an act of the Congress of the United States of America, entitled "An act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same."

George Logan, of the city, county, and State of New York, having taken or subscribed the oath required by the said act, and having sworn that the requisitions of an act entitled "An act to provide for the better security of the lives of passengers on board of vessels propelled in whole

or in part by steam," as modified by the act of 3d March, 1843, have been complied with; and also that he is a citizen of the
[Collector.] United States, and sole owner of the steamboat or vessel called the John Jay, of New York, whereof David Bird is at present master, and, as he hath sworn, is a citizen of the United States; and that the said steamboat or vessel was built at New York, State of New York, in the year one thousand eight hundred and thirty, as per enrolment No. 42, issued at this port on the 25th of May, 1850, now cancelled, property changed.

And said enrolment having certified that the said steamboat or vessel has one deck and no mast, and that her length is one hundred five feet, her breadth nineteen feet ten inches, her depth 6 feet 10 inches, and that she measures one hundred and thirty-one $\frac{4}{95}$; that she is a square-sterned steamboat, has a round turk-head; and that the said George Logan having agreed to the description and admeasurement above specified, and sufficient security having been given according to
[Naval office.] the said act, the said steamboat has been duly enrolled at the port of New York.

Given under our hands and seals, at the port of New York, this 17th day of December, one thousand eight hundred and fifty.

CUSTOM-HOUSE, NEW YORK,
Jan'y 14th, 1850.

This is to certify, that the foregoing is a true copy of the original enrolment of the within named vessel, as per record in this office.

Given under my hand and seal.

G. EHERINGER, *Dep. coll'r.*

Endorsed: No. 9—19. Exhibit No. 7, enrolment stm. bt. John Jay, G. Logan, owner. Dec. 17, 1850.
Filed Jan'y 25, 1851.

PORT OF NEW YORK,
District of the city of New York, ss. (92.)

I, George Logan, of the city, county, and State of New York, do solemnly swear, according to the best of my knowledge and belief, that the ship or vessel called the John Jay, of New York, is of the burthen of 131$\frac{4}{95}$ tons, and was built at New York aforesaid, in the year 1830, as per enrolment No. 42, issued at this port on the 25th of May, 1850, now cancelled, property changed. That the act of 7th July, 1838, as modified by the act of 3d March, 1843, has been complied with. That my present usual place of abode or residence is New York aforesaid; and that I am a citizen of the United States, and the true and only owner of the said ship or vessel; that there is no subject or citizen of any foreign prince *of* State, directly or indirectly, by way of trust, confidence, or otherwise, interested therein, or in profits and

1121.

issues thereof; and that David Bird is the present master or commander of the said ship or vessel.

Sworn this 17th day of December, 1850.

I, , the present master of the above mentioned vessel, do that I am a citizen of the United States, having been

Know all men by these presents, that we, George Logan, are held and firmly bound unto the United States of America, in the full and just sum of twelve hundred dollars, to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally by these presents. Witness our hands and seals, this 17th day of December, one thousand eight hundred and fifty.

The condition of the foregoing obligation is such, that whereas Hugh Maxwell, collector for the district of the city of New York, has issued and granted a certificate of enrolment in the manner prescribed by the act entitled "An act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same" for the steamboat called the John Jay, burthen 131 $\frac{88}{95}$ tons, whereof David Bird is at present master, which certificate is dated the 17th December, one thousand eight hundred and fifty, and numbered 92. Now, therefore, if the said certificate of enrolment shall be solely used for the said steamboat, for which it has been granted, and shall not be sold, *but* or otherwise disposed of to any person or persons whomsoever, and in case the said shall be lost or taken by any enemy, burnt, or broken up, or shall otherwise be prevented from returning to the port to which she belongs, if the said certificate (if preserved) shall within eight days after the arrival of the master or person having the charge or command of the said steamboat within any district of the United States, to be delivered up to the collector of such district, or if any foreigner, or any person or persons for the use and benefit of such foreigner, shall purchase or otherwise become entitled to the whole or any part of, or interest in, the said steamboat, the same being within a district of the United States, if the said certificate shall within seven days after such purchase, change, or transfer of property, shall happen when the said steamboat shall be at sea, if the master or person having the charge or command thereof shall within 8 days after his arrival within any district of the United States deliver up the said certificate to the collector of such district, then the said obligation shall be void and of no effect, but otherwise shall remain in full force and virtue.

(Signed) GEORGE LOGAN, [L. S.]
DAVID BIRD, [L. S.]
Surety, SAM'L GODWIN. [L. S.]

Signed, sealed, and delivered in the presence of—
J. A. Boyle, *Master.*

CUSTOM-HOUSE, NEW YORK,
COLLECTOR'S OFFICE, *January* 15, 1851.

This is to certify, that the foregoing is a true copy of the original oath in this office. Given under my hand and seal.

G. EHNINGER, *D. C.*

(Endorsed:) Exhibit VIII, copy of oath of G. Logan to enrolment of steamboat John Jay, December 17, 1850. 9—19. Filed January 25, 1851.

Know all men by these presents, that I, Joseph McMurray, of Brooklyn, King's county, in the State of New York, in the United States of America, am held and firmly bound to Seba M. Bogert, master mariner, William J. Wilcox and Leonard F. Fitch, ice dealers of the city and county of New York, in the said United States, their certain attorney or attorneys, executors, administrators, and assigns, in the sum of ten thousand dollars, lawful money of the United States of America, to which payment well and truly to be made, I bind myself, my heirs, executors, administrators, or assigns firmly by these presents; sealed with my seal and dated in the city of New York, in the United States of America, this 8th day of May, one thousand eight hundred and fifty.

Whereas I, the said Joseph McMurray, have purchased from the said Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, the vessel or steamboat John Jay, built in New York in the year of our Lord eighteen hundred and thirty, of the burthen of one hundred and thirty-one tons or thereabouts, the title or bill of sale to which vessel or steamboat has been duly and lawfully transferred and conveyed by them to me and placed in my name, simultaneously with the due execution and delivery of these presents; and in consideration of the said purchase and transfer to me and in my name of said vessel or steamboat John Jay, I have engaged and agreed to pay the said Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, the sum of six thousand dollars, lawful money of the United States of America, on the terms and conditions following, that is to say:

1st. One thousand dollars on the execution and delivery of these presents and said bill of sale.

2d. The remaining five thousand dollars in my promissory notes, payable in equal instalments or amounts of six hundred and twenty-five dollars each, viz., dating from the date of these presents, and payable at three, six, nine, twelve, fifteen, eighteen, twenty-one, and twenty-four months after date, with interest added thereto at and after the rate of seven per cent. per annum, and each of said notes is made payable to the order of Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, being in all eight promissory notes, on which the interest as aforesaid amounts in the aggregate to the full sum of three hundred and ninety-three dollars and seventy-two cents, the said principal sum and interest making in the aggregate the full sum of five

thousand three hundred and ninety-three dollars and seventy-two cents lawful money as aforesaid, more particularly specified as follows:

1st. Note payable three months after date, with ten dollars and ninety-three cents interest added to the principal sum of six hundred and twenty-five dollars, makes six hundred and thirty-five dollars and ninety-three cents.

2d. Note payable at six months after date, with twenty-one dollars and eighty-seven cents interest, added to the principal sum of six hundred and twenty-five dollars, makes six hundred and forty-six dollars and eighty-seven cents.

3d. Note payable nine months after date, with thirty-two dollars and eighty-one cents interest, added to the principal sum of six hundred and twenty five dollars, makes six hundred and fifty-seven dollars and eighty-one cents.

4th. Note payable at twelve months after date, with forty-three dollars and seventy-five cents interest, added to the principal sum of six hundred and twenty-five dollars, makes six hundred and sixty-eight dollars and seventy-five cents.

5th. Note payable fifteen months after date, with fifty-four dollars and sixty-eight cents interest, added to the principal sum of six hundred and twenty five dollars, makes six hundred and seventy-nine dollars and sixty-eight cents.

6th. Note payable eighteen months after date, with sixty-five dollars and sixty-two cents interest, added to the principal sum of six hundred and twenty-five dollars, makes six hundred and ninety dollars and sixty-two cents.

7th. Note payable twenty-one months after date, with seventy-six dollars and fifty-six cents interest, added to the principal sum of six hundred and twenty-five dollars, makes seven hundred and one dollars and fifty-six cents.

8th. Note payable twenty-four months after date, with eighty-seven dollars and fifty cents interest, added to the principal sum of six hundred and twenty-five dollars, makes seven hundred and twelve dollars and fifty cents.

And whereas, in consideration of the premises and a condition thereof to secure the full and just payment of the said sum of five thousand dollars, with interest as aforesaid, amounting to the further sum of three hundred and ninety-three dollars and seventy-two cents, making in the aggregate the full sum of five thousand three hundred and ninety-three dollars and seventy-two cents lawful money as aforesaid:

Know all men by these presents, that I, Joseph McMurray, owner of the vessel or steamboat "John Jay," have sold, assigned, transferred and set over, and do hereby sell, assign, transfer, and set over to Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch aforesaid, the said vessel or steamboat "John Jay," her tackle, apparel, furniture, boats, machinery, and all appurtenances and equipments. Provided, however, that this instrument is intended to operate only as a mortgage to secure the full and just payment of

the eight promissory notes aforesaid given in consideration of the purchase money of said vessel or steamboat as aforesaid, with this express proviso that when I, the said Joseph McMurray, shall pay or offer to pay to the said Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, or either of them, any of the notes at maturity, then simultaneously with the payment thereof, or offer to pay, the amount so paid shall be legally endorsed on this bond or instrument as satisfaction in part thereof, and the note delivered up to me.

And another express proviso of this bond or instrument is, that I, the said Joseph McMurray, may at any time, at my option, pay any one or more of the said notes before the maturing thereof to the said Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, they, or either of them, is bound to except in such payments, abating from such note or notes interest for the time mentioned on said note or notes, and endorse on this instrument as aforesaid, and deliver to me the said note or notes. In default thereof, all further interest from the day of such payment, or offer to pay, shall wholly cease and determine.

And as a further security in the premises, I, the said Joseph McMurray, agree and engage to insure said vessel or steamboat, and to deliver to the said Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, within fifteen days from the date of these presents, a policy or policies therefor to the amount of at least five thousand five hundred dollars, and when the policy or policies so first given shall expire, the insurance to be renewed during the continuance of this instrument to an amount of not less than ten per centum more than the sum due thereon at the time of renewal and loss, if any, to be payable to them or their order, with this express promise, that in case of loss or damage to said vessel or steamboat, such sum or sums as they, the said Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch may receive, and be paid by reason of such insurance, and such loss or damage, shall be applied, 1st, to the payment in full of said five thousand dollars, with interest only to the day of such application, or to such part thereof as may remain unpaid; and 2dly, the balance, if any, shall immediately be paid to me, the said Joseph McMurray, or my order.

In testimony whereof I have hereunto set my hand and seal, the day and year above written.

J. McMURRAY.

Signed, sealed, and delivered in the presence of—
JAMES LAWSON,
ROBERT B. CAMPBELL.

And it is further conditioned of this instrument, that during the time that this instrument remains unsatisfied, in whole or in part, it is to be deposited in the North River Bank, in the city of New York, and that the cashier of said bank is authorized to endorse on this instrument according to its tenor the amount of the note or notes as they are respectively paid; and that it shall not be withdrawn therefrom without the

written consent of the said Joseph McMurray, unless he shall be in default according to the conditions thereof.

Dated at the city of New York, May eighth, 1850.

L. F. FITCH,
WM. J. WILCOX,
SEBA M. BOGERT.

Witnesses—JAMES LAWSON,
ROBERT B. CAMPBELL.

STATE, CITY, AND COUNTY OF NEW YORK, *ss.*

Know all men by these presents, that on this eighth day of May, A. D. one thousand eight hundred and fifty, before me, Robert B. Campbell, a public notary of the State of New York, under the great seal of the said State, duly commissioned and sworn, and residing in the city of New York, personally appeared and presented themselves, Joseph McMurray, Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, to me known to be the individuals described in and who executed the foregoing instrument, and severally acknowledged to me that they executed the same.

In testimony whereof I have subscribed these presents, and caused my notarial seal of office to be hereunto affixed, the day and year first above written.

ROBERT B. CAMPBELL,
Notary public.

(Endorsed:)—Exhibit No. 10. 9—19, Joseph McMurray to Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch. Bond filed January 25, 1851.

Copy.

$647 $\frac{87}{100}$. NEW YORK, *8th May*, 1850.

Six months after date, I promise to pay to the order of Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, six hundred and forty-seven $\frac{87}{100}$ dollars, value received.

(Signed) J. McMURRAY.

This note, after due, has become mislaid or lost from the possession of W. A., and is by consent to be filed with the others, if found.

$657 $\frac{81}{100}$. NEW YORK, *8th May*, 1850.

Nine months after date, I promise to pay to the order of Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, six hundred and fifty-seven $\frac{81}{100}$ dollars, value received.

No. . Due J. McMURRAY.

$668 $\frac{75}{100}$. NEW YORK, *8th May*, 1850.

Twelve months after date, I promise to pay to the order of Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, six hundred and sixty-eight $\frac{75}{100}$ dollars, value received.

No. . Due J. McMURRAY.

$679 $\frac{88}{100}$. NEW YORK, *8th May*, 1850.

Fifteen months after date, I promise to pay to the order of Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, six hundred and seventy-nine $\frac{88}{100}$ dollars, value received.

No. . Due J. McMURRAY.

$690 $\frac{88}{100}$. NEW YORK, *8th May*, 1850.

Eighteen months after date, I promise to pay to the order of Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, six hundred and ninety $\frac{88}{100}$ dollars, value received.

No. . Due J. McMURRAY.

$701 $\frac{58}{100}$. NEW YORK, *8th May*, 1850.

Twenty-one months after date, I promise to pay to the order of Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, seven hundred and one $\frac{58}{100}$ dollars, value received.

No. . Due J. McMURRAY.

$712 $\frac{50}{100}$. NEW YORK, *8th May*, 1850.

Twenty-four months after date, I promise to pay to the order of Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, seven hundred and twelve $\frac{50}{100}$ dollars, value received.

No. . Due J. McMURRAY.

(Endorsed:)—Vol. 9—19. Exhibit, No. 11.

Original notes unpaid for purchase money Steamboat John Day, No. 2 to 8, inclusive, No. 9—19. Filed January 25, 1851.

Know all men by these presents, that we, George Logan, 1472, husband or managing purser, and David Bird, master of the steamboat John Jay, of New York, are held and stand firmly bound unto the United States of America, in the full and just sum of one thousand dollars, for which payment well and truly to be made, we bind ourselves, our heirs, executors, administrators, jointly and severally, firmly by these presents.

Sealed with our seals, dated this 17th day of December, in the year of our Lord one thousand eight hundred and fifty.

The condition of the foregoing obligation is such, that whereas Hugh Maxwell, collector of the district of New York, has in the manner prescribed by the act entitled "An act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same," issued and granted for the steamboat called the John Jay, of New York, burthen 131 $\frac{83}{95}$ tons, whereof David Bird is at present master, a license for carrying on the coasting trade for one year from the above date, which license is dated this day, and numbered as above.

Now, therefore, if it shall appear within two years from the date hereof, that the said steamboat had, during the time the license granted to

said vessel remained in force, been employed in any trade whereby the revenue of the United States shall have been defrauded, then the said obligation shall be good and remain in full force, but otherwise it shall be void and of no effect.

(Signed) GEORGE LOGAN, [L. S.]
DAVID BIRD, [L. S.]
R. G. GODWIN. [L. S.]

Signed, sealed, and delivered in the presence of—
J. A. BOYLE.

CUSTOM-HOUSE, NEW YORK,
Collector's office, January 15th.

This is to certify, that the foregoing is a true copy of the original license and bond in this office.

Given under my hand and seal.

G. EHNINGER, *D. C.*

No. 1472.

License of a steamboat or vessel to carry on the coasting trade for one year.

DISTRICT OF THE PORT OF NEW YORK.

In pursuance of an act of the Congress of the United States of America, entitled "An act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same," David Bird, of the city, county, and State of New York, having given bond that the steamboat called the "John Jay," [collector] whereof the said David Bird is master, burthen one hundred and thirty-one $\frac{83}{95}$ tons, as appears by her enrolment, dated at New York, this 17th day of December, one thousand eight hundred and fifty, shall not be employed in any trade while this license shall continue in force, whereby the revenue of the United States shall be defrauded; and having sworn that the requisitions of an act entitled "An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam," have been complied with, and that this license shall not be used for any other vessel, nor for any other employment than hereby specified; license is hereby granted for the said steamboat to be employed in carrying on the coasting trade for one year from the date hereof, and no longer.

Given under our hands and seals of office, at the custom-house, this 17th day of December, in the year one thousand eight hundred and fifty.

NAVAL OFFICE, DISTRICT OF NEW YORK,
Port of New York.

Oath on obtaining a new license for a vessel.

I, Daniel Bird, do solemnly swear that I am a citizen of the United States, and that the license for the steamboat John Jay shall not be

used for any other vessel or any other employment than that for which it is specially granted, or any trade or business whereby the revenue of the United States may be defrauded.

(Signed) DAVID BIRD.

Sworn to before me, this 17th day of December, 1850.

Collector.

CUSTOM-HOUSE NEW YORK, COLLECTOR'S OFFICE, 16*th January*, 1851.

I certify the within to be a true copy of an original coasting license granted to the within named vessel, as per record in this office.

Given under my hand and seal of office, this 16th day of January, 1851.

GEORGE ELMINGER, *D. C.*

Endorsed: Exhibit XI—Coasting license of steamboat John Jay, granted December 17th, 1850.

9—19. Filed January 25th, 1851.

To all to whom these presents shall come, greeting: Know ye that Joseph McMurray of King's county, State of New York, merchant, only owner of the steamboat or vessel called the John Jay, of New York, of the burthen of one hundred and thirty-one tons or thereabouts, for and in consideration of the sum of six thousand dollars, lawful money of the United States of America, to me in hand paid before the sealing and delivery of these presents by George Logan, of the city and State of New York, merchant, the receipt whereof I do hereby acknowledge, and therewith fully satisfied, contented and paid, have bargained and sold, and by these presents do bargain and sell unto the said George Logan, his executors, administrators and assigns, the whole of the said steamboat or vessel, together with the whole of the mast, bowsprit, sails, boat anchors, cables, and all other necessaries thereto appertaining and belonging, the certificate of the enrolment of which said steamboat or vessel is as follows, to wit:

Enrolment—Permanent.

No. 42. Enrolment in conformity to an act of the Congress of the United States of America, entitled "An act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same.

Joseph McMurray, of the city of Brooklyn, State of New York, having taken or subscribed the oath required by the said act, and having sworn that the requisitions of an act entitled "An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam," or modified by the act of 3d March, 1843, having been complied with, and also that he is a citizen of the United States and sole owner of the steamboat or vessel called the John Jay, of New York, whereof is at present master, and as he hath

sworn is a citizen of the United States, and that the said steamboat or vessel was built at New York, State of New York, in the year one thousand eight hundred and thirty, as per enrolment No. 34, issued at this port on the 17th May, 1849, now cancelled, property changed; and said enrolment having certified that the said ship or vessel has one deck, and no mast, and that her length is one hundred and four feet, her breadth nineteen feet ten inches, her depth six feet ten inches, and that she measures one hundred thirty-one $\frac{8}{95}$ tons, and that she is square-sterned steamboat, has a round tuck, no galleries and head; and the said Joseph McMurray having agreed to the description and admeasurement above specified, and sufficient security having been given according to the said act, the said steamboat has been duly enrolled at the port of New York.

Given under my hand and seal at the port of New York, this 25th day of May, in the year one thousand eight hundred and fifty.

J. McMURRAY.

To have and to hold the said steamboat John Jay, and appurtenances thereunto belonging, unto him, the said George Logan, his executors, administrators and assigns, to the sole and only proper use, benefit and behoof of him, the said George Logan, his executors, administrators and assigns forever.

And I, the said Joseph McMurray, have, and by these presents do promise, covenant and agree, for heirs, executors and administrators, to and with the said George Logan, heirs, executors, administrators and assigns, to warrant and defend the said steamboat John Jay, and all the other before mentioned appurtenances, against all and every person and persons whomsoever.

In testimony whereof I, the said Joseph McMurray, have hereunto set my hand and seal, this second day of December, in the year of our Lord one thousand eight hundred and fifty.

JOHN McMURRAY.

Sealed and delivered in the presence of—
SAMUEL GODWIN.

STATE AND COUNTY OF NEW YORK.

Be it remembered that on the 3rd day of December, in the year one thousand eight hundred and fifty, personally appeared before me, Samuel Godwin, a public notary, Joseph McMurray, and acknowledged the within bill of sale to be his free act and deed.

In testimony whereof I have hereunto set my hand and seal of office, the day and date first above written.

SAMUEL GODWIN, *N. P.*

Endorsed: Bill of sale from Joseph McMurray to George Logan, custom-house New York, December 17th, 1850. Received for record at 1 o'clock p. m., and recorded in book No. 1, B. L, of E. V., pages 305 and 306.

JOHN H. BARRY, *Clerk.*
G. ELMINGER, *Dep. coll'r.*

To all whom these presents shall come, greeting: Know ye that we, Seba M. Bogart, master mariner, William J. Wilcox and Leonard F. Fitch, ice dealers, all of the city and county of New York, in the United States of America, owners of the steamboat or vessel called the John Jay, of New York, of the burthen of one hundred thirty-one $\frac{31}{95}$ tons or thereabouts, for and in consideration of the sum of six thousand dollars, lawful money of the United States of America, to us in hand paid before the sealing and delivery of these presents by Joseph Mc Murray, of King's county, State of New York, merchant, the receipt whereof we do hereby acknowledge, and therewith fully satisfied, contented and paid, have bargained and sold, and by these presents do bargain and sell, unto the said Joseph McMurray, his executors, administrators and assigns, the whole of the said steamboat or vessel, together with the whole of the mast, bowsprit, sails, boat anchors, cables, and all other necessaries thereunto appertaining and belonging; the certificate of the enrolment of which said steamboat or vessel is as follows, to wit:

Enrolment—Permanent.

No. 34. Enrolment in conformity to an act of the Congress of the United States of America, entitled An act for enrolling and licensing ships and vessels to be employed in *enrolling and licensing ships and vessels to be employed in* the coasting trade and fisheries, and for regulating the same.

Seba M. Bogert having taken or subscribed the oath required by the said act, and having sworn that he, the said Seba M. Bogert, William J. Wilcox of New York, and Leonard F. Fitch of Rockland, State aforesaid, are citizens of the United States and sole owners of the steamboat or vessel called the John Jay, of New York, whereof he, the said Seba M. Bogert, is at present master, and as he hath sworn, is a citizen of the United States; and that the said ship or vessel was built at New York, State of New York, in the year of our Lord one thousand eight hundred and thirty, as per enrolment No. 52, issued at this port on the 1st December, 1848, now cancelled, property changed in part; and said enrolment having certified that the said ship or vessel has one deck and no mast, and that her length is one hundred and four feet, her breadth nineteen feet ten inches, her depth six feet ten inches, and that she measures one hundred and thirty-one $\frac{31}{95}$ tons, and that she is square-sterned steamboat, has a round tuck, no galleries and head; and the said Seba M. Bogert having agreed to the description and admeasurement above specified, and sufficient security having been given according to the said act, the said steamboat has been duly enrolled at the port of New York.

Given under our hands and seal at the port of New York, this seventeenth day of May, in the year one thousand eight hundred and forty-nine.

To have and to hold the said steamboat John Jay, or vessel, and

appurtenances thereunto belonging, unto the said Joseph McMurray, his executors, administrators and assigns forever; and we, the said Seba M. Bogart, William J. Wilcox and Leonard F. Fitch have, and by these presents do promise, covenant and agree, for heirs, executors and administrators, to and with the said Joseph McMurray, heirs, executors, administrators and assigns, to warrant and defend the said steamboat John Jay or vessel, and all the other before mentioned appurtenances, against all and every person and persons whomsoever. In witness whereof we have hereunto set our hands and seals, this eighth day of May, in the year of our Lord one thousand eight hundred and fifty.

SEBA M. BOGERT,
WILLIAM J. WILCOX,
L. F. FITCH.

Signed, sealed and delivered in the presence of—
JAMES LAWSON,
G. B. GORDON MCDOUGAL,
ROBERT B. CAMPBELL.

H. O. CAZELL, *Coll'r*, [L. S.]
ROBT. S. HONE, [L. S.]
U. S. naval officer.

UNITED STATES OF AMERICA,
State, city, and county of New York, ss.

Know all men by these presents, that on this eighth day of May, A. D. one thousand eight hundred and fifty, before me, Robert B. Campbell, personally appeared Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, to me known to be the individuals described in and who executed the foregoing instrument, and acknowledged that they severally executed the same.

In testimony whereof I, the said notary, have subscribed these presents, and caused my notarial seal of office to be hereunto affixed, the day and year first above written.

ROBERT B. CAMPBELL,
Thursday, March 17th, 1853. *Notary Public.*

Final decree.

At a stated term of the district court of the United States of America, for the southern district of New York, held at the city hall, in the city of New York, on Thursday, the nineteenth day of May, in the year of our Lord one thousand eight hundred and fifty-three.

Present, the honorable Samuel R. Betts, district judge.

SEBA M. BOGERT et al.
vs.
The Steamboat JOHN JAY.

This case having been heard on pleadings and proofs, and argued by the advocates for the respective parties, and due deliberation being had in the premises, it is now ordered, adjudged and decreed, that the libel filed in this cause be dismissed with costs, to be taxed against the libellants.

And on motion of F. Byrnes, proctor for the claimant, it is further ordered, that unless an appeal be taken to this decree within the time limited and prescribed by the rules and practice of the court, that the stipulators for the libellant's costs pay into the registry of the court the amount of their stipulation, and that the clerk distribute the proceeds in satisfaction of this decree.

District court of the United States of America, for the southern district of New York.

SEBA M. BOGERT, William J. Wilcox, and Leonard F. Fitch, libellants,
against
The Steamboat JOHN JAY, her tackle, &c.

SIR: You will please to take notice that the libellants intend to appeal from the decree rendered in the above cause, on the nineteenth day of May, A. D. 1853.

Yours, &c.,

W. A. SEELY,
Proctor for libellants and appellants.

To GEORGE W. MORTON, *Clerk.*

(Endorsed:) 9—19. U. S. district court—Seba M. Bogert et al. vs. The Steamboat John Jay, her tackle, &c. Notice of appeal—W. A. Seely, Proctor for libellants. Filed May 28th, 1853.

District court of the United States of America, for the southern district of New York.

SEBA M. BOGERT, William J. Wilcox, and Leonard F. Fitch, libellants,
vs.
The Steamboat JOHN JAY, her tackle, &c.

SIR: Please to take notice, that on the 7th day of June instant, at 10 o'clock in the forenoon of that day, at the office of the clerk of this court, in the city hall of the city of New York, the libellants will give the stipulation required by the rules and practice of this court, on appeal from this court to the circuit court of the United States, and that William Jackson of said city, residing at No. 379 Eighth avenue, bookkeeper, is proposed as surety for the libellants in said stipulation. Dated June 3d, A. D. 1853.

Yours, &c., W. A. SEELY,
Proctor for libellants.

To F. BYRNE, esq.,
Proctor for claimant.

(Endorsed:) 9—19. U. S. district court—Seba M. Bogert et al. vs. The Steamboat John Jay, her tackle, &c. Wm. A. Seely, Pr. lib't and app'lt. Notice. Sureties, and filed June 7th, 1853.

I hereby admit due service on me of a notice of which the within is a copy, this 3d day of June, A. D. 1853.

F. BYRNE, *Proctor for cl'mt, &c.*

Circuit court of the United States of America, for the southern district of New York, in the second circuit.

Bond for costs.

SEBA M. BOGERT, William J. Wilcox, and Leonard F. Fitch, libellants and appellants,
vs.
The Steamboat JOHN JAY, otherwise called the Goliah, George Logan, claimant and appellee.

Know all men by these presents, that we, William Jackson and William J. Wilcox, are held and firmly bound unto the above named claimant and appellee, in the sum of five hundred dollars, to be paid to the said claimant, for the payment of which, well and truly to be made, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated the seventh day of June, in the year of our Lord one thousand eight hundred and fifty-three.

Whereas the above named libellants have prosecuted an appeal to the circuit court of the United States, for the southern district of New York, to reverse the decree rendered in the above entitled suit, by the judge of the district court of the United States, for the southern district of New York:

Now, therefore, the condition of this obligation is such, that if the above named libellants shall prosecute their appeal to effect and answer all damages and costs if they fail to make their appeal good, then this obligation shall be void, otherwise the same shall be and remain in full force and virtue.

WILLIAM J. WILCOX,
WILLIAM JACKSON.

Sealed and delivered, and taken and acknowledged, this 7th day of June, 1853, before me,

GEO. W. MORTON, *U. S. Com'r.*

UNITED STATES OF AMERICA,
Southern district of New York, ss.

William Jackson and William J. Wilcox, being duly sworn, depose and say, and each for himself saith, that he is worth the sum of one thousand dollars, over and above all his just debts and liabilities.

WILLIAM J. WILCOX,
WILLIAM JACKSON.

Sworn to, this seventh day of June, A. D. 1853, before me.

CIRCUIT COURT OF THE UNITED STATES,
Southern district of New York.

SEBA M. BOGERT, WILLIAM J. WILCOX, and LEONARD F. FITCH, libellants and appellants,
vs.
THE STEAMBOAT JOHN JAY, her tackle, furniture, &c., &c. George Logan, claim't and resp't.

To the honorable the circuit court of the United States, for the southern district of New York, in the second circuit:

The appeal of the above named appellants respectfully showeth: That on or about thirteenth day of December, in the year one thousand eight hundred and fifty, the above named Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, exhibited their libel in the district court of the United States, for the southern district of New York, against the Steamboat John Jay, her tackle, apparel, and furniture, and against all persons lawfully intervening for their interest therein, in a cause of mortgage, civil and maritime, praying that process in due form of law, according to the course of said court in cases of admiralty and maritime jurisdiction, might issue against the said vessel or steamboat the John Jay, her tackle, apparel, furniture, boats, machinery and equipments; and that all persons having or pretending to have any right, title, or interest therein might be cited to appear and answer all and singular the matters contained in said libel; and that this court would decree the payment of the amount of the purchase money of said vessel or steamboat yet remaining unpaid to the libellants, with interest and costs; and that the said vessel or steamboat, her tackle, apparel, furniture, machinery, boats and equipments, might be condemned to pay the same; and that the libellants might have such other and further relief as in law and justice they might be entitled to receive.

That process issued out of said court having been duly served, and the said steamboat, her tackle, apparel, furniture, &c., having been arrested, the said respondent, George Logan, did, on or about the thirty-first day of December, in the year one thousand eight hundred and fifty, file his claim and answer to the said libel, in the said district court, praying that the said libel be dismissed, with his costs in and about his claim and defence, or for such other decree as should appear just and equitable in the premises, as by reference to the said libel and the said claim and answer may more fully appear.

That the said cause came on to be heard before the honorable Samuel R. Betts, judge of the said district court, on or about the 6th and 7th days of April, A. D. 1853, upon the depositions and proofs taken in said cause, and the testimony and proofs advanced by the respective parties; and the said judge having advised thereon, a final decree or sentence was, on the 19th day of May, in the year 1853, made in the said cause, whereby it was, among other things, sentenced

1128.

and decreed that the libel filed by these appellants in said cause be dismissed, with costs against the libellants, as by reference to the said decree may more fully appear.

And these appellants are advised and insist that the said decree is erroneous, inasmuch as the said libellants were entitled to the relief prayed for in the said libel.

And these appellants, for these and other reasons, appeal from the whole of the said decree against these appellants, to the next circuit court to be held in the said district; and on said appeal they intend to have said cause heard anew in the circuit court on the pleadings and proofs in the district court, and other proofs to be introduced in the said circuit court; and they pray that the record and proceedings may be returned to the said circuit court, and that the said decree may be reversed, as to said circuit court may seem just; and that the appellee may be compelled to pay to the appellants their costs and damages in the premises.

W. A. SEELY, *Proctor.*

CIRCUIT COURT OF THE UNITED STATES,
Southern district of New York.

SEBA M. BOGERT, WILLIAM J. WILCOX, and LEONARD F. FITCH, libellants and appellants,
vs.
THE STEAMBOAT JOHN JAY, her tackle, apparel, and furniture, &c., &c. George Logan, claim't and resp't.

STATE OF NEW YORK,
City and county of New York, ss.

Charles Cheney, being duly sworn, says: That on this first day of July, A. D. 1853, he served a copy of the annexed appeal on F. Byrne, esq., the proctor for the respondent in this action in the district court, by leaving the same at his office in said city with his clerk, who had charge of his said office, he being absent therefrom himself; and deponent says that he knows that the said F. Byrne, esq., was proctor of said respondent in the district court; and further saith not.

CHARLES CHENEY.

Sworn before me, this 1st day of July, 1853.

GEO. W. MORTON,
U. S. commissioner.

(Endorsed:) 9—19. District court of the United States, for the southern district of New York. Seba M. Bogert et al. vs. The Steamboat John Jay, her tackle, &c., and George Logan, claimant and respondent. Petition and appeal.

W. A. SEELY, *Proctor.*

Filed July 1st, 1853.

At a special term of the circuit court of the United States of America, for the southern district of New York, in the second circuit, held at the city hall, in the city of New York, on the eighth day of October, in the year of our Lord one thousand eight hundred and fifty-three.

Present: The honorable Samuel Nelson, an associate justice of the Supreme Court of the United States.

THE STEAMBOAT JOHN JAY, her engines, &c. George Logan, claimant and appellee,
ads.
SEBA M. BOGERT and others, libellants and appellants.

On reading and filing affidavits, &c., on the part of the libellants and appellants, and notice of motion for leave to amend the prayer of the libel, and after hearing Mr. Jones, advocate for the motion, and Mr. George F. Betts, advocate for the claimant and opposed, and on reading and filing affidavits on the part of the said claimant, &c., it is, on motion of Francis Byrne, proctor for the said claimant, ordered that the said motion be, and the same is hereby, denied, with costs to be paid by the appellants to the appellee.

And it is further ordered, adjudged, and decreed, that the decree of the district court, dismissing the libel filed in this action by said libellants and appellants, be affirmed in all things, and that said libel be dismissed. And on motion of Francis Byrne, proctor for the claimant and appellee, it is further decreed that said claimant, George Logan, recover in this action against Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, the said libellants and appellants, his costs in this court to be taxed.

And on like motion it is further ordered, that the stipulators for costs cause their stipulations to be fulfilled; and that in default thereof the said claimant have execution to enforce this decree, according to the rules and practice of this court.

Circuit court of the United States of America, southern district of New York, in the second circuit.

SEBA M. BOGERT, WILLIAM J. WILCOX, and Leonard F. Fitch, libellants and appellants,
vs.
THE STEAMBOAT JOHN JAY, her tackle, &c., George Logan, claimant and appellee.

Know all men by these presents, that we, Samuel Hiscox, Staats S. Bell, both of the city, county, and State of New York, are held and firmly bound unto the above named George Logan in the sum of seven hundred and fifty dollars, to be paid to the said appellee, for the payment of which, well and truly to be made, we bind ourselves and each of our heirs, executors, and administrators, jointly and severally, firm-

ly by these presents. Sealed with our seals, and dated the eighteenth day of October, in the year of our Lord one thousand eight hundred and fifty-three.

Whereas the above named appellants have prosecuted an appeal to the Supreme Court of the United States, at the city of Washington, in the District of Columbia, to reverse the decree in the above suit rendered by the circuit court of the United States for the southern district of New York.

Now, therefore, the condition of this obligation is such, that if the above named appellants shall prosecute their appeal to effect, and answer all damages and costs if they fail to make their appeal good, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

(Signed) SAMUEL HISCOX, [SEAL.]
(Signed) STAATS S. BELL, [SEAL.]

Sealed and delivered, and taken and acknowledged, this eighteenth day of October, 1853, before me,

GEO. W. MORTON,
U. S. Commissioner.

UNITED STATES OF AMERICA,
Southern district of New York, ss.

Samuel Hiscox and Staats S. Bell, being duly sworn, depose and say, and each for himself saith, that he is worth the sum of fifteen hundred dollars over and above all his just debts and liabilities.

SAMUEL HISCOX,
STAATS S. BELL.

Sworn to before me this 18th day of October, A. D. 1853.

GEORGE W. MORTON,
U. S. Commissioner.

I approve the above bond and the sufficiency of the sureties thereto.

(Signed) SAMUEL R. BETTS.

October 18, 1853.

SUPREME COURT OF THE UNITED STATES.

SEBA M. BOGERT, WILLIAM J. WILCOX, and LEONARD F. FITCH, libellants and appellants,
vs.
THE STEAMBOAT JOHN JAY, her tackle, furniture, &c., &c., GEORGE LOGAN, claimant and respondent.

To the honorable the Supreme Court of the United States.

The petition and appeal of Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, the above named libellants and appellants, respect-

fully showeth: That on the thirteenth day December, in the year 1845, they filed their libel in the district court of the United States, for the southern district of New York, against the Steamboat John Jay, her tackle, furniture, &c., in a cause of mortgage, civil and maritime, praying, among other things, that the said court would decree the payment of the amount of the purchase money of said vessel or steamboat remaining unpaid to the libellants, with interest and costs, and that the said vessel or steamboat, her tackle, &c., might be condemned to pay the same, and that the libellants might have such other and further relief as in law and justice they might be entitled to receive. That the said steamboat was arrested upon process issued upon said libel, and was discharged on the said George Logan's filing his claim and answer and entering into stipulations. That your petitioners filed their replication to the said claim and answer, and the said claimant thereupon filed his duplication to the said replication, and such proceedings were had in the said cause, that on the nineteenth day of May, in the year 1853, a final decree was made and pronounced therein by the said district court, wherein it was in substance decreed that the libel filed by your petitioners be dismissed, with costs.

That after such final decree your petitioners duly appealed therefrom to the circuit court of the United States, for the southern district of New York, and the said cause was removed thereby into the said circuit court, to be there tried anew. That afterwards your petitioners moved, in the said circuit court, to amend the prayer of the said libel by inserting the words, "or that the said Steamboat John Jay may be decreed to be the property of the said libellants, and the possession be directed to be delivered to the said libellants," immediately preceding the prayer for general relief, and such proceedings were thereupon had in the said circuit court, that ont he eighth day of October, in the year 1853, the said circuit court made adecree in the said cause, whereby it was among others ordered that the said motion be denied, with costs; and it was further ordered, adjudged, and decreed, that the decree of the district court dismissing the libel in this action by said libellants and appellants be affirmed in all things, and that said libel be dismissed, with costs; and that the stipulators cause their stipulations to be fulfilled, and in default thereof, that said claimant have execution; which said decree of the said circuit court is, as these appellants are advised, erroneous, and ought to be reversed.

Wherefore these appellants appeal from the whole of said decree of said circuit court to the Supreme Court of the United States, and respectfully pray, that the said decree of said circuit court, and the libel, answer, pleadings, depositions, evidence, papers, and proceedings in said cause may be sent to the Supreme Court of the United States without delay, and that the said Supreme Court will proceed to hear the said cause anew, and that the said decree of the circuit court, and every part thereof, be reversed, and a decree made therein as to the

said Supreme Court shall seem just. And your petitioners will ever pray, &c.

Dated New York, October 17, 1853.

SEBA M. BOGERT,
For himself and other appellants.
W. A. SEELY,
Proctor and advocate for appellants.

UNITED STATES OF AMERICA,
State of New York, city and county of New York, ss.

Charles Cheney, of said city, being duly sworn, says, that on the 18th day of October, in the year of our Lord one thousand eight hundred and fifty-three, at the store of George Logan, the within named claimant and respondent, in the said city, he, deponent, served the within citation and petition of appeal on the said George Logan, by delivering to him true and perfect copies thereof, and that he then and there left said copies with him.

CHAS. CHENEY.

Sworn to before me this 6th day of December, 1853.
R. E. STILWELL, *U. S. com'r.*

By the honorable Samuel R. Betts, one of the judges of the circuit court of the United States for the southern district of New York, in the second circuit, to George Logan:

Whereas Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch have lately appealed to the Supreme Court of the United States from a decree lately rendered in the circuit court of the United States, for the southern district of New York, in the second circuit, made in favor of you, the said George Logan, claimant of the steamboat "John Jay," her tackle, &c., against the said Seba M. Bogert, William J. Wilcox, and Leonard F. Fitch, and have filed the security required by law.

You are therefore hereby cited to appear before the said Supreme Court, at the city of Washington, on the fifth day of December next, to do and receive what may appertain to justice to be done in the premises.

Given under my hand at the city of New York, in the southern district of New York, in the second circuit, the eighteenth day of October, in the year of our Lord one thousand eight hundred and fifty-three, and of the independence of the United States the seventy-eighth.

(Signed) SAM'L R. BETTS.